

FACE SHEET

(OAL-4)

(See Instructions on Reverse)

FOR FILING ADMINISTRATIVE REGULATIONS WITH THE OFFICE OF ADMINISTRATIVE LAW

ORD #385-17

85 12 13

DEC 11 3 55 PM '85

ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING

JAN 2 1986

Office of Administrative Law
LEAVE BLANK

1. ATTACHED ARE REGULATIONS ADOPTED, AMENDED OR REPEALED BY:

State Department of Social Services
(AGENCY)

BY: [Signature]
(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

FILED

In the office of the Secretary of State
of the State of California

JAN 2 - 1986

At 4:35 o'clock P.M.

MARCH FONG EU, Secretary of State

By [Signature]
Deputy Secretary of State

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION
Rick Torres, Regulations analyst

TELEPHONE 445-0313

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

SECTIONS AMENDED 63-504.46 and 63-505.511

Title: _____
SECTIONS ADOPTED 63-050; 63-504.47, .471, and .472 et. seq.

SECTIONS REPEALED

3. TYPE OF ORDER (CHECK ONE)

- ☒ Regular ☐ Emergency (Attach Finding of Emergency) ☐ Certificate of Compliance
- Other Regulatory Actions:
- ☐ Procedural and Organizational Change ☐ Editorial Correction ☐ Authority and Reference Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

- ☒ No ☐ Yes, if yes give date of previous filing _____

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

- ☒ No ☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES, CHECK THE APPROPRIATE BOX OR BOXES.

- ☐ State Fire Marshal (Attach Approval) ☐ Building Standards Comm. (Attach Approval) ☐ Fair Political Practices Comm. (Include FPPC Approval Stamp) ☐ Department of Finance (Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

June 28, 1985

b. DATE OF ADOPTION OF REGULATION(S)

November 27, 1985

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

- ☒ No ☐ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS ON REVERSE)

- a. ☐ Effective 30th day after filing with the Secretary of State.
- b. ☐ Effective on _____ as required by statutes: (list) _____
- c. ☐ Effective on February 1, 1986 (Designate effective date **earlier than** 30 days after filing with the Secretary of State pursuant to Government Code Section 11346.2(d).)
- ☐ Request Attached
- d. ☐ Effective on _____ (Designate effective date **later than** 30 days after filing with the Secretary of State.)

INSTRUCTIONS FOR STD 400
(OAL-4)

A completed Face Sheet for Filing Regulations With the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer authorized to submit regulations.

Part 1. Provide agency name and signature of the agency officer. Also provide the name and telephone number of the person who can answer questions regarding this regulatory filing.

Part 2. Provide the Administrative Code Title in which the regulation will appear and list each section number to be amended, adopted, or repealed.

(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

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- b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

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- a. If regulations are to be effective 30 days after filing with the Secretary of State.
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The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required.
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

FINAL STATEMENT OF REASONS

a) Description of the Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulations Are Intended to Address

These proposed regulations are being amended/adopted in order to specify time frames and procedures for making food stamp changes for nonmonthly reporting households when a Social Security cost-of-living adjustment (COLA) is granted by the Social Security Administration (SSA). The proposed regulations also specify that some households are not required to report these changes. The proposed regulations also explain the methods of identifying these households and how to compute the new Social Security benefit amount to the county welfare departments (CWDs).

b) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

The specific purpose for the regulations and the factual basis for determining that the regulations are necessary are as follows:

1. Section 63-050Specific Purpose:

Section 63-050 requires the implementation of time frames and procedures for effecting food stamp changes for nonmonthly reporting households when a Social Security cost-of-living adjustment (COLA) is granted by the Social Security Administration.

Factual Basis:

These proposed regulations are necessary to ensure compliance with federal regulations contained in 7 CFR 273.12(e)(3) and 7 CFR 273.10(f)(3)(iii).

2. Section 63-504.4bSpecific Purpose:

These editorial corrections will clarify this regulation by specifying the exact reference citations for handling mass changes for the nonmonthly reporting households.

Factual Basis:

This is an editorial change to add a reference citation for clarity and does not change the intent or content of the regulation.

3. Sections 63-504.47, .471, .472, et seq.

Specific Purpose:

These sections are being adopted to specify the time frames and procedures for the county welfare departments (CWDs) to follow when a Social Security cost-of-living adjustment (COLA) occurs. This process is only being included for the nonmonthly reporting households because the monthly reporting households will be required to report this increase on their monthly report. Nonmonthly reporting households are not required to report changes resulting from Social Security COLA's. The CWD is responsible for automatically adjusting the household's food stamp benefit level to reflect these changes.

These proposed regulations were originally in state regulations, but were inadvertently omitted when the Monthly Reporting Retrospective Budgeting (MRRB) regulations were filed effective January 1, 1984. CWDs currently have no regulatory process for handling food stamp changes to nonmonthly reporting households resulting from Social Security COLA's.

Factual Basis:

These proposed regulations are necessary to ensure compliance with federal regulations 7 CFR 273.12(e)(3) and 273.10(f)(3)(iii). Section 273.12(e)(3)(ii) specifies the three options available to the CWDs to make the Social Security COLAs. The options are (1) use of the SDX computer system to extract the new social security benefit amount; if the CWD does not have this computer capability, they may use one of a combination of (2) a desk review or (3) the scheduling of recertifications for households receiving social security benefits during the 120 days following the increases. (See Administrative Notice 84-25, January Mass Changes dated December 22, 1983 from Carol M.

Fahey, Regional Director, FNS regarding legislation (P.L. 98-21) which was enacted shifting the COLA date for all of the affected federal benefit programs from July to January.) Also, for Section 63-504.47, 7 CFR 273.21(d) specifies that the CWDs must use income received in the budget month to calculate and issue benefits for the corresponding issuance month - a time period of 60 days.

Because the federal regulations do not specify how to determine the new increased Social Security amount, the State Department of Social Services (SDSS) has been requiring CWDs to use the flat percentage specified by the SSA and approved in the waiver granted FNS. (See letter dated November 15, 1984 from Rex Bailey, Acting Regional Director, FNS). For January 1, 1985 COLAs for example, the SSA granted a 3.5 percent increase. This amount will be used by CWDs to determine the new Social Security benefit amount when the actual amount is not available.

It is also necessary to adopt Section 63-504.472(b)(1)(A) because federal regulation 7 CFR 273.12(d) specifies that households are not to be held liable for overissuances which result from a change that the household is not required to report. This proposed state regulation ensures compliance with the federal requirements and also provides clarity to the state regulations regarding the fact that if an underissuance occurs, the CWD must restore any lost benefits.

4. Section 63-505.511

Specific Purpose:

This proposed revision is being made to add that nonmonthly reporting households are not required to report changes in income that result from a Social Security COLA.

Factual Basis:

This change ensures compliance with federal regulation 7 CFR 273.12(e)(3)(i), which specifies that households are not responsible for reporting Social Security COLA changes.

c) Identification of Documents Upon which Department Is Relying

7 CFR 273.10(f)(3)(iii), 7 CFR 273.12(e)(3)(i) and (ii), and 7 CFR 273.21(d); letter dated November 15, 1984 from FNS' Acting Western Regional Director Rex Bailey; Administrative Notice 84-25 dated December 22, 1983 from Carol M. Fahey, FNS Regional Director; and 42 USC Section 415(1)(2)(A) and (B); 42 USC Section 403(f)(8)(A), and 42 USC Section 430(a); (PL 98-21).

c) Testimony Summary and Response

There was no oral testimony presented at the August 14, 1985 public hearing. Written testimony was received from Los Angeles County, Santa Clara County and the Western Regional Office of the United States Department of Agriculture Food and Nutrition Service (USDA/FNS). The comments and the Departments responses to those comments follow.

General Comment:

Los Angeles County responded in writing to indicate they had no comments to the regulations as presented.

Section 63-050

Comment:

The Santa Clara County Department of Social Services (STCL DSS) commented that "the 30 days stipulated is not long enough to implement changes--90 days is more realistic." "When regulations require printing new materials or training, it is impossible to accomplish implementation in 30 days." In addition, it was recommended that the words "social security" be capitalized.

Response:

The changes in this regulation package do not mandate new requirements for the CWDs. The standard time frame for regulation implementation is the first of the month, 30 days after filing with the Secretary of State. The Department agrees that the words "social security" should be capitalized and the suggested correction has been made.

Section 63-504.47

Comment:

STCL DSS suggested that the "words 'social security' should be capitalized throughout this section since it is not being used in the generic sense."

Response:

The Department agrees that wherever the words "Social Security" are not being used in the generic sense they should be capitalized. This suggested correction has been made.

Comment:

STCL DSS suggested that the "SDSS set the time frames for effecting Social Security COLAs, but give the CWDs the option of how to implement, depending on whether or not they have computer systems."

Response:

The specific intent of these proposed regulations being amended/adopted is to specify time frames and procedures for making food stamp changes for nonmonthly reporting households when a Social Security cost of living adjustment is granted by the Social Security Administration (SSA). These proposed regulations are necessary to ensure compliance with federal regulations 7 CFR 273.12(e)(3) and 273.10(f)(3)(iii). Federal regulation 273.12(e)(3)(ii) specifically specifies the three options available to the CWDs to make the Social Security cost-of-living adjustments. No revision has therefore been made to this section in response to this testimony.

Comment:

The Food and Nutrition Service (FNS) commented that a waiver was granted July 23, 1984 which allowed SDSS to use a flat percentage method. This waiver expired July 23, 1985 and no waiver extension has been requested. FNS requested SDSS to amend this section of the regulations to state that the usage of flat percentage method is conditional upon approval of an annual waiver to be granted by FNS.

Response:

On June 27, 1984, SDSS requested a waiver to allow use of the flat percentage method to account for the Social Security cost-of-living increases for nonmonthly reporting households for January 1984 as well as January 1985. On July 23, 1984, FNS approved a waiver for January 1984 increases, but could not approve a waiver for January 1985 COLAs. On November 6, 1984, SDSS requested a waiver for January 1985 COLAs. On November 15, 1984, FNS approved a waiver enabling SDSS to reflect the January 1985 Social Security COLAs on a flat 3.5 percent basis for nonmonthly reporting households only. SDSS

recognizes that the usage of the flat percentage method is conditional upon approval of an annual waiver granted by FNS and will be submitting a request for January 1986 COLAs in the near future. No revision has been made to this regulation section as it is not necessary to state this in the regulations.

Section 63-504.471

Comment:

STCL DSS suggested that "this section is so narrowly defined, it appears to allow computers to be used in one specific manner only. It does not seem to allow those CWDs with computer systems to use the Social Security percentage increase as stated in Section 63-504.471(b)(1)." STCL DSS also commented that the word "extract" was awkward.

Response:

Section 63-504.471(b)(1) which has been commented on does not exist and should be referred to as Section 63-504.472(b)(1) in the testifier's comments.

Section 63-504.471 allows CWDs with a computer system that can identify households receiving Title II Social Security benefits and extract the new benefit amount to effect these changes. If a CWD lacks this computer capability, they may use one or a combination of the other methods. This does not preclude CWDs with computer systems from using the percentage factor increase method to adjust food stamp benefits. In reference to the use of the word "extract", the language used in this proposed regulation is consistent with the language of the federal regulations. The federal regulations refer to a "computer system that can extract on a timely basis the new benefit data". No revision has therefore been made to this section in response to this testimony.

Section 63-504.472(a)

Comment:

STCL DSS asked "does the language in this section give the CWDs authority to set up a food stamp household for a period of less than six months?" It is also unclear on whether the recertification period would be shortened for households that are already established.

Response:

The language in this section does give CWDs the authority to set up a new household for a certification period of less than six months. If the CWD opts to effect the Social Security cost-of-living increase through the process of recertification, all new affected cases, on a one time basis only, shall be assigned certification periods that will expire during the 120 days following the effective date of the social security change. The recertification period would not be shortened for households who are already established. No revision has been made to this section in response to this testimony.

e) Local Mandate Statement

These regulations do impose a mandate on local agencies but not on local school districts. However, this mandate is not reimbursable under Section 2231 of the Revenue and Taxation Code because it implements mandatory federal regulations.

f) Statement of Potential Cost Impact on Private Persons or Businesses

The State Department of Social Services has determined that these regulations will result in no cost impact on private persons or businesses.

g) Small Business Impact Statement

The State Department of Social Services has determined that these regulations will not result in an adverse economic impact on small businesses.

UPDATED INFORMATIVE DIGEST

These proposed regulations adopt time frames and procedures for making food stamp changes for nonmonthly reporting households when a Social Security cost-of-living adjustment (COLA) is granted by the Social Security Administration (SSA). Currently, there is no method to make these types of changes in the Food Stamp Program. Since nonreporting households are not required to report these changes the regulations explain to county welfare departments (CWDs) the method of identifying these households and computing the new Social Security benefit amount.

Adopt Section 63-050 to read:

63-050 IMPLEMENTATION OF SOCIAL SECURITY COST-OF-LIVING 63-050
ADJUSTMENTS

CWDs shall implement these regulations on Social Security cost-of-living adjustments for nonmonthly reporting households effective on the first day of the month, 30 days after filing with the Secretary of State. Sections affected are 63-504.46, 63-504.47, .471, .472, et seq., and 63-505.511.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 18902 and 18904.

Amend Section 63-504.46 to read:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING
 ELIGIBILITY (Continued)

63-504

•4 Effecting Changes for Nonmonthly Reporting Households
 (Continued)

•46 Mass Changes

 Mass changes, as defined in Section 63-504.391 for
 nonmonthly reporting households shall be processed in
 accordance with Sections 63-504.391(a) and (b).

Authority: Welfare and Institutions Code Sections 10553 and
 18904.

Reference: Welfare and Institutions Code Section 10554.

Adopt Sections 63-504.47, .471, and .472 et. seq. to read:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING
ELIGIBILITY (Continued)

63-504

.4 Effecting Changes for Nonmonthly Reporting Households
(Continued)

.47 Social Security Benefit Cost-of-Living Adjustments
(COLAS)

The CWD shall adjust the household's food stamp benefits to reflect the Social Security COLA. Any changes shall be made within 120 days of the effective date of the Social Security benefit payment change. For nonmonthly reporting households subject to retrospective budgeting the changes shall be made no earlier than 60 days from the effective date of the benefit payment change.

.471 CWDs with a computer system that can identify households receiving Title II Social Security benefits and extract the new Social Security benefit payment amount shall effect these changes in accordance with Section 63-504.47.

.472 CWDs lacking this computer capability shall use one or a combination of the following methods to make this change in accordance with Section 63-504.47:

(a) Recertification Process

All new food stamp households which contain at least one member who receives Social Security benefits shall, on a one-time basis, be assigned a certification period that will expire during the 120 days following the effective date of the Social Security change. The recertification process time standards and notices to households shall be in accordance with Sections 63-504.25 and 63-504.63.

(b) Desk Reviews

Identify all food stamp households receiving Social Security benefit payments through desk reviews.

(1) CWDs shall compute the new Social Security benefit amount by using the Social Security percentage adjustment factor provided by SDSS.

(A) Overissuances caused by CWD error in applying the Social Security Administration (SSA) adjustment factor cannot be attributed to the household. For underissuances, restoration of lost benefits is mandated in Section 63-802.1.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18902; 7 CFR 273.10(f)(3)(iii) and 7 CFR 273.12(e)(3); Food and Nutrition letter dated November 15, 1984 from Rex Bailey, Acting Western Regional Director, Food Nutrition Service; Administrative Notice 84-25, January Mass Changes dated December 22, 1983 from Carol M. Fahey, Western Regional Director, Food Nutrition Service; and PL 98-21 (42 USC Section 415(i)(2)(A) and (B), 42 USC Section 403(f)(8)(A); and 42 USC Section 430(a)).

Amend Section 63-505.511 to read:

63-505 HOUSEHOLD RESPONSIBILITIES (Continued)

63-505

.5 Reporting Changes for Households Excluded from Monthly Reporting Requirements (Continued)

.51 Household Responsibility to Report (Continued)

- .511 Changes in the sources of income, in the amount of gross monthly income or medical expenses of more than \$25, (see Section 63-502.33). Changes in the public assistance or the general assistance grant are not required to be reported. Since the CWD has prior knowledge of all changes in these grants, action shall be taken on the CWD information. Additionally, households are not required to report changes in income that result from Social Security COLAs.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR 273.12(e)(3)(i).

FACE SHEET

(OAL-4)

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WITH THE OFFICE OF ADMINISTRATIVE LAW**

(See Instructions on Reverse)
ORD #0185-02

DEC 19 1 02 PM '85

ENDORSED
APPROVED FOR FILING

JAN 15 1986

Office of Administrative Law

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1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

Department of Social Services

*(AGENCY)

BY:

(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

FILED
In the office of the Secretary of State
of the State of California

JAN 15 1986
At 4:07 o'clock P.M.
MARCH FONG EU, Secretary of State
By: Marjorie Hershberger
Deputy Secretary of State

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION

Dion Webb, Regulations Analyst

TELEPHONE

445-0313

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

Title: 22 SECTIONS AMENDED

SECTIONS ADOPTED

MPP 50-014

SECTIONS REPEALED

3. TYPE OF ORDER (CHECK ONE)

- ☐ Regular ☐ Emergency (Attach Finding of Emergency) ☒ Certificate of Compliance
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7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

August 30, 1985

b. DATE OF ADOPTION OF REGULATION(S)

December 18, 1985

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

November 29, 1985-December 16, 1985

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

- ☒ No ☐ Yes

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CERTIFICATE OF COMPLIANCE - Section 11346.1(e), Government Code

The Department of Social Services hereby certifies that it has complied with the provisions of Sections 11346.4 through 11346.8 inclusive of the Government Code, within 120 days of the effective date of the following emergency regulations which were filed with the Secretary of State on August 22, 1985, and which became effective on August 22, 1985.

Manual of Policy and Procedures, Division 50, Chapter 000, Sections:

Adopted

014

These regulations were presented at public hearing on October 15, 16, and 17, 1985. As a result of the public hearing the following sections have been changed.

<u>Amended</u>	<u>Adopted</u>
014.211	014.217
.214	
.215	
.221	
.324	
.924(e)	
.931	



LINDA S. McMAHON
Director

12/17/85

Date

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Adopt new Section 50-014 to read:

50-014 SETTLEMENT OF NORTH COAST COALITION V. WOODS, 50-014
WOOD V. WOODS, WRIGHT V. WOODS, AND
ANGUS V. WOODS

.1 Background

.11 North Coast Coalition v. Woods

On November 29, 1979, the Mendocino County Superior Court issued a Preliminary Injunction enjoining the Department from enforcing EAS Sections 44-113.5 and 44-133.7 insofar as the portion from the required Unrelated Adult Male's (UAM's) contribution which is for the UAM's own living expenses and any contribution made by the UAM, whether cash or in-kind, for a partial item of need which was specifically designated by the UAM to be for his own living expenses was considered under those regulations to be income available to the AFDC Assistance Unit (AU). This injunction was stayed while the Department's appeal was pending.

On May 5, 1980, the Court of Appeal of the State of California, First Appellate District, ordered that the injunction be given effect during the remainder of the appeal process. On October 1, 1980, the Court of Appeal affirmed the Order granting the preliminary injunction. The Department implemented the preliminary injunction on October 1, 1980 on a prospective basis. Under the final judgment entered into on November 7, 1984, the terms of the preliminary injunction are to be applied to the period August 1976 through September 1980.

On November 7, 1984, the Mendocino County Superior Court issued a stipulation of settlement and approval of agreement accepting the terms of the Settlement Agreement entered into by parties to this action.

.12 Wood v. Woods

On January 25, 1980, the San Mateo County Superior Court issued a Temporary Restraining Order prohibiting the Department from implementing regulations amending MPP Sections 43-105.5, 44-115, 44-133 and 44-106 filed on an emergency basis effective January 1, 1980 providing that the spouse's community property interest in the income of a nonadoptive stepparent was to be considered

unconditionally available to the spouse for the support of the stepchild(ren) living in the home. On February 26, 1980, the Superior Court ruled in favor of the Department by denying the plaintiffs' application for a preliminary injunction and vacating and dissolving the temporary restraining order. The plaintiffs appealed this ruling.

On July 19, 1982, the Court of Appeal of the State of California, First Appellate District, reversed the ruling of the Superior Court. The Court of Appeal ruled that Civil Code Section 5127.6, which was the basis for the amendment to MPP 43-105.5, did not create a duty on the part of the stepparent to support nonadopted children. Therefore, the regulations implemented effective January 1, 1980 were invalid.

The Omnibus Budget Reconciliation Act of 1981 mandated the inclusion of stepparent income in determining eligibility for AFDC benefits, regardless of whether or not a state law mandates support for nonadopted children. This rendered the issue presented in the Wood case moot on a prospective basis.

The Court of Appeal, however, ruled on September 30, 1982 that plaintiff's were entitled to retroactive benefits from January 1, 1980 through October 1, 1981.

On March 1, 1985, the San Mateo County Superior Court issued a final judgment which incorporated the September 30, 1982 decision of the Court of Appeal and the terms of the Settlement Agreement entered into by the parties to this action.

•13 Wright v. Woods

As a result of the decision in Garcia v. Swoap (1976) 63 Cal. App. 3d 903, cert. den., 436 U.S. 930, the Department implemented regulations (MPP Section 44-316) on August 1, 1979 providing for supplemental AFDC payments to recipients who suffered a loss or decrease of income in the payment month. The regulations required that supplemental payments be issued to AFDC recipients who requested them in the month in which their AFDC payment together with their total income, was less than 80 percent of the Maximum Aid Payment (MAP).

In Garcia v. Woods (1980) 103 Cal. App. 3d 702, the Court of Appeal held that supplemental payments must be made in an amount so that the AFDC payment, together

with total income, equals the full amount of the MAP. However, because plaintiffs in Garcia sought only injunctive and declaratory relief, retroactive benefits were not awarded. A change in state law removed the full supplemental payment requirement on a prospective basis.

On May 28, 1981, the Court of Appeal of the State of California, First Appellate District, in the case of Wright v. Woods, (1 Civil 48535), which had raised the same legal issues as Garcia, ruled that class members were entitled to file claims for underpayments as a result of not receiving a full supplemental payment.

Pursuant to the Court of Appeal decision in Wright, the Department is required to issue retroactive supplemental payments to all claimants who would have been eligible for a supplemental payment from July 18, 1976 through December 31, 1980 for any month in which the claimant's AFDC payment together with total income was less than 100 percent of MAP.

On March 1, 1985, the San Mateo County Superior Court issued a final judgment which incorporated the May 28, 1981 decision of the Court of Appeal and the terms of the Settlement Agreement entered into by the parties to this action.

•14 Angus v. Woods

On August 25, 1980, the United State District Court for the Northern District of California issued a preliminary injunction requiring the Department to cease all collection of willfully caused overpayments of AFDC from current grants. The court ruled that the Department's regulations (MPP Section 44-353) were invalid in that they did not provide a process for consideration of the individual facts of each recipient family's financial circumstances in determining undue hardship in connection with an AFDC grant adjustment, consistent with federal regulations.

On May 1, 1981, the Department adopted MPP Section 44-353.241(b) delineating a method of willful overpayment recoupment by grant adjustment which complied with the Preliminary Injunction.

The Omnibus Budget Reconciliation Act of 1981, changed the method of overpayment recoupment. As a result of the changes in federal law, the regulations implementing

the preliminary injunction were repealed on April 2, 1982 and the issue presented in the Angus case is moot on a prospective basis.

On November 22, 1982, the United States District Court for the Northern District of California granted plaintiff's motion for summary judgment. The order established the retroactive period from August 31, 1977 through the date the Department fully implemented the preliminary injunction on January 1, 1981. For the period from January 1, 1981 until the Department adopted regulations on May 1, 1981, the County welfare Departments were instructed to cease all recoupment of willfully caused overpayment by grant adjustment. Therefore, the retroactive period ordered by the District Court is from September 1, 1977 through December 31, 1980.

On July 12, 1985, the United States District Court issued a final judgment which incorporated its November 22, 1982 order modified by the terms of the Settlement Agreement entered into by the parties to this action.

.15 Settlement Agreement

On January 25, 1984, plaintiffs' counsel proposed a settlement which set forth the manner of notice and distribution of retroactive benefits to class members of all four cases. The Department entered into negotiations with plaintiffs' counsel to arrive at a mutually acceptable agreement.

On October 18, 1984 the Settlement Agreement was entered into by plaintiffs' counsel and the Department. Under the terms of paragraph 8(9) of this Agreement, the Department is required to implement its provisions on July 1, 1985.

However, because not all of the courts having jurisdiction over the individual cases approved the provisions of the Agreement by March 1, 1985 (as required by Section D "Approval of Agreement") the time frames for implementing this Agreement were delayed until all approvals were obtained. The final approval was obtained on July 12, 1985. This caused the balance of the time frames to be continued from this date. As a result, the Department is required to implement the provisions of this Agreement within 122 days from the date the final approval was obtained. (The 122-day period represents the number of days between March 1,

1985 and July 1, 1985.) Therefore, the provisions of this Agreement must be implemented no later than November 11, 1985. In order that the provisions of this agreement commence on the first day of the month, as it would have been had all courts approved the agreement prior to March 1, 1985, the Department concluded that the earliest it could be implemented was November 1, 1985. This date was selected because of the time needed to file these regulations and complete the printing of necessary forms.

The Settlement requires that retroactive benefits to eligible claimants be: (1) calculated through the use of existing case file information (actual benefits); or (2) in the event the case file information is missing or incomplete (preventing the calculation of actual benefits) issued through the use of an average monthly benefit amount specified for each individual case. In addition to requiring retroactive payments, the settlement requires that prejudgment interest be paid on retroactive payments. The amount of the interest is to be computed based on a percentage of the retroactive benefit awarded for a calendar year within the specified retroactive period.

The following provisions describe the procedure by which retroactive benefits will be claimed and eligibility for payment determined.

.2 Informing potentially eligible persons of the availability of retroactive benefits.

.21 In order to notify the classes of potentially eligible persons, the State Department of Social Services (SDSS) shall:

.211 Send by first class mail a notice printed in both English and Spanish together with an individual claim form for each case (Angus v. Woods, TEMP 1620; North Coast Coalition v. Woods, TEMP 1621; Wood v. Woods, TEMP 1622; and Wright v. Woods, TEMP 1623) printed both in English and Spanish along with a listing of addresses for Legal Aid Offices and CWD Offices on November 1, 1985 to prescribed former Medi-Cal recipients who received such benefits any time between July 1981 and December 1982 and to all current AFDC recipients.

.212 Conduct an advertising and public relations campaign beginning on November 1, 1985.

- .213 Issue posters printed in both English and Spanish informing the general public of the availability of benefits. The posters shall contain the same language as contained on the mailed notice.
- (a) These posters shall be provided to the Employment Development Department, Social Security Administration and CWDs for posting in offices throughout the State of California from November 1, 1985 through February 28, 1986. Additional posters will be available for posting in all legal services offices in the state.
- .214 Provide a toll free telephone number so Spanish speaking potential claimants may call the Department to obtain the Spanish version of the claim forms specified in .211 above.
- (a) The toll free telephone number shall be listed only on the Spanish version of the notice and poster.
- .215 Print and provide CWDs with sufficient copies of the Notice and claim forms specified in .211 for mailing to all AFDC recipients.
- .216 Provide CWDs camera-ready copies of the English and Spanish Notice and the English and Spanish claim forms specified in .211.
- .217 Provide a certification to plaintiff's counsel as to the date on which the notice and claim forms were mailed to current AFDC recipients and any problems encountered in the mailing which may affect the number of claims received.
- .22 In order to notify the classes of potentially eligible persons, the county welfare department (CWD) shall:
- .221 Be responsible for the mailing by first class mail on November 1, 1985 to all current AFDC recipients, the SDSS supplied notice, printed in both English and Spanish, together with an individual claim form for each case (Angus v. Woods, TEMP 1620; North Coast Coalition v. Woods, TEMP 1621; Wood v. Woods, TEMP 1622; and Wright v. Woods, TEMP 1623), printed in both English and Spanish along with a listing of addresses for legal aid offices and CWD offices.

- 222 Post English and Spanish informing posters supplied by SDSS in a conspicuous location in all CWD offices from November 1, 1985 through February 28, 1986.
- 223 Forward a supply of the English and Spanish informing posters supplied by SDSS to all Food Stamp issuance outlets within the county with a request that the posters be displayed in conspicuous locations from November 1, 1985 through February 28, 1986.
- 224 Reproduce a supply of the English and Spanish claim forms specified in •221 sufficient to provide them to anyone upon request.
- 225 Give or mail the notice and either the English or Spanish claim forms, whichever is appropriate, to a claimant upon request.

•3 Application for Retroactive Benefits

•31 Claimant Responsibilities

- 311 The claimant shall complete the appropriate claim form for each court case in which he/she is requesting retroactive benefits.
- 312 The claimant shall sign the claim form(s) under penalty of perjury.
- 313 The claimant shall return the claim form(s) to the CWD in the county from which he/she received or was denied/discontinued AFDC cash aid during the month(s) he/she is claiming retroactive benefits.
 - (a) A separate claim form(s) shall be completed and returned to each county in which the claimant wishes to claim retroactive benefits.
- 314 The claim form(s) shall be submitted to the proper CWD by February 28, 1986. Claims submitted after this date shall be denied, except as provided in •315(b) below.
 - (a) Unless the evidence indicates otherwise, the date the claim form is submitted shall be determined as follows:

- (1) The postmark date of the envelope, when the claim is mailed to the CWD; or
- (2) The date stamped on the claim form by the CWD, when the claim is delivered in person to the CWD; or
- (3) The date the claim form was signed by the claimant, when the date cannot be determined by either (1) or (2) above.

.315 The claimant shall be permitted to resubmit a previously denied claim or portion thereof or reapply if the date of resubmittal is:

- (a) Prior to the close of the claim period specified in .314 above, or
- (b) Prior to March 31, 1986 or 30 days from the date of the denial, whichever is later, when the claim was denied in accordance with .422 below and the claimant resubmits the claim form to the correct CWD. In the event the correct CWD is determined as a result of a fair hearing, the claimant may resubmit the claim form(s) within 30 days of the hearing decision.

.32 CWD Responsibilities

- .321 The CWD shall stamp each claim form with the date the form was received and shall retain all envelopes that were postmarked after February 28, 1986.
- .322 Claims submitted after the date specified in .314 above shall be denied except as provided in .315(b) above.
- .323 The CWD shall determine eligibility and issue retroactive benefits to eligible claimants or deny the claim, as appropriate, within 120 calendar days of receipt of the claim form except as provided in (b) and (c) below.
 - (a) Within this same 120-day period, the CWD shall issue a Notice of Action (NOA) explaining to the claimant:

- (1) The disposition of the claim;
 - (2) The computation of retroactive benefits; and
 - (3) The right to request a state hearing.
- (b) The CWD may exceed the 120-day period in situations where completion of the determination of eligibility is delayed because of circumstances beyond the control of the CWD. In these instances, the case record must document the cause for delay.
 - (c) Inability of the CWD to complete the determination of eligibility within the 120-day period shall not be a basis for denying the claim unless the delay is caused by the refusal of the claimant to participate in the gathering of the needed information, clarification or verification. (See Section 50-014.438.)
- 324 The CWD shall submit certification to SDSS on or before December 31, 1985. The certification shall be submitted on the form (TEMP 1642) provided by SDSS and shall contain:
- (a) The date on which the notice and claim forms were mailed to current AFDC recipients;
 - (b) Any problems encountered in mailing of the notice and claim forms which may affect the number of claims received;
 - (c) Any problems encountered in the process of receiving claims which may have affected the actions taken on those claims.
- 325 The CWD shall submit to SDSS a statistical report for each court case on or before May 30, 1986. The CWD shall submit to SDSS a final statistical report by July 30, 1986 for each court case in which the initial report showed claims pending a decision as of May 1, 1986. The reports shall be submitted on the forms (TEMP 1635, 1635A, 1635B, and 1635C) provided by SDSS and shall contain:

(a) The following statistics broken out by each court case and by the first year for which the claimant requested retroactive benefits:

- (1) Number of claims received;
- (2) Number of claims denied in full;
- (3) Number of claims granted in full using case record information; and
- (4) Number of claims granted in full using the average monthly benefit table.

(b) The following statistics by each court case:

- (1) Number of claims in which missing information, clarification, or verification was needed;
- (2) Number of claims granted in part and denied in part;
- (3) Number of claims which had payments from other retroactive court cases used in the benefit computation;
- (4) Number of claims in which outstanding collectable overpayments were recouped;
- (5) Number of claims pending a decision as of May 1, 1986;
- (6) Total amount of benefits paid out using case record information, including interest;
- (7) Total amount of benefits paid out using the average monthly benefit table, including interest;
- (8) Total amount of other retroactive payments used in the benefit computation; and

(9) Total amount of outstanding collectable overpayments recouped.

(c) The following statistics by each court case, and by claims granted in full or in part and by claims denied:

(1) Number of claimants who were former recipients of AFDC that learned of the availability of retroactive benefits through:

(A) The mailing;

(B) The Advertising / Public Relations Campaign;

(C) The poster;

(D) Other; and

(E) Did not indicate

•4 Claim(s) Processing

•41 Review of Class Membership Questions

Upon receipt of the claim form(s), the CWD shall review the responses to the class membership qualifying questions. The class membership questions are in the shaded boxes on the front page of each claim form. In order for the claimant to be potentially eligible for retroactive benefits under the case, the claimant must answer "yes" to all the class membership questions on the appropriate claim form except on the Angus v. Woods claim form. On the Angus v. Woods claim form, the first three (3) questions must be answered "yes" and either the fourth or fifth question must be answered "yes".

•411 If the claimant fails to provide a response to one or all of the questions necessary to certify class membership, the CWD shall return the claim form to the claimant for completion in accordance with •433 below.

•412 If the claimant's answers to the class membership question(s) on the front page of the specific claim form indicate that the claimant is not in the class, the CWD shall deny the claim with a NOA

informing the claimant of his/her right to a state hearing.

- 413 Verification of receipt, denial, or discontinuance of AFDC shall not be required.

•42 Wrong County Received Claim Form

If a CWD receives a claim for any period in which, the CWD can determine from the claim form that the form has been submitted to the wrong county, the CWD shall either:

- 421 Forward the claim form or a copy thereof to the correct CWD with a copy of the NOA sent to the claimant indicating the month claimed to be processed by the second CWD, when the correct CWD can be determined from the information on the claim form. In addition, the CWD shall inform the claimant on an NOA that, for the period in question, his/her claim has been forwarded to the correct CWD for processing.

- (a) The date the claim form was submitted to the first CWD, as determined in .314 above, shall be used by the second CWD.

-or-

- 422 Deny that period claimed in which the correct CWD cannot be determined from the information on the claim form. The CWD shall return the claim form or a copy thereof together with the NOA informing the claimant of:

- (a) The month(s) being denied;
- (b) The right to a state hearing;
- (c) The ability to resubmit the claim for the month(s) in question to the correct CWD within the time limits specified in .315 above; and
- (d) The need to attach a copy of the NOA when resubmitting the claim form to the correct CWD.

•43 Review of Information Contained on the Claim Form(s)

•431 The CWD shall review each claim form to determine if the claimant has provided the information needed in order to locate the appropriate case record information. For the purpose of this determination, a claim form shall be considered complete when all the following requirements are met:

- (a) The qualifying class membership questions contained on the front page of each claim form are answered; and
- (b) The claimant has provided his/her name, current address, social security number, date of birth, telephone number, county in which he/she received AFDC, and current recipient status (failure to provide his/her old address, AFDC case number or the month/year in which AFDC was denied/discontinued would not render the form incomplete); and
- (c) The claimant has indicated which month(s)/year(s) retroactive benefits are being claimed; and
- (d) The claimant for North Coast Coalition v. Woods or Wood v. Woods retroactive benefits, provides either a "yes" or "no" response to the question regarding the denial/discontinuance of AFDC for any of the month(s)/year(s) claimed.
- (e) The claimant for Angus v. Woods retroactive benefits provides a response to the question regarding the presence of his/her spouse in the home during the month(s)/year(s) being claimed.
- (f) The claim form has been signed under penalty of perjury the lack of the spouse/other parent's signature would not render the form incomplete.

•432 The CWD shall review the information contained on all claim forms and request clarification if the information is internally inconsistent. At a minimum, the CWD shall request clarification when any of the following conditions exists:

- (a) The claimant files a claim for retroactive benefits for both North Coast Coalition v. Woods (UAMs) and Wood v. Woods (stepparents) during the same claim month; or
 - (b) The claimant's old address provided on the claim form does not correspond to the county in which the claimant indicated he/she received AFDC; or
 - (c) The claimant indicates that his/her AFDC was stopped prior to the month(s)/year(s) for which retroactive benefits are being claimed in either Angus v. Woods or Wright v. Woods; or
 - (d) The claimant indicates that his/her AFDC was stopped on a certain date on the front page of the North Coast Coalition v. Woods (TEMP 1621) or Wood v. Woods (TEMP 1622) claim form, but indicates a different date on the back page of the claim form in the section regarding the information about the AU during the period claimed when the AU was denied/discontinued.
- .433 In order to obtain the required information specified in .431 above, .543, and .643 below; the needed clarification specified in .432(a) through (d) above, .543, .643, and .732 below or the necessary verification specified in .544, or .644 below, the CWD shall send the claimant a notice which specifies the missing information, requested clarification or verification needed. A copy of the claim form(s) shall be attached to the notice. The claimant shall have 30 days from the date of the notice to respond to the request. Information shall be gathered in accordance with MPP Section 40-157.
- .434 The notice specified in .433 above shall inform the claimant of his/her ability to request a "good cause" extension to the 30-day deadline. If verification is requested, the notice shall also inform the claimant that if he/she is unable to provide the requested verification, a declaration signed under penalty of perjury by the claimant

affirming the information is acceptable in lieu of the verification.

- .435 The CWD shall grant a "good cause" extension for up to 30 days beyond the deadline contained on the notice when:

- (a) The claimant indicates to the CWD, either verbally or in writing of his/her need for additional time to comply with the request; and
- (b) The claimant is cooperating in obtaining the requested information, clarification or verification; and
- (c) The claimant makes the "good cause" request prior to the expiration of the deadline, unless the CWD finds that the claimant was prevented from making such request because of circumstances beyond his/her control. In the situation where circumstances were beyond the claimant's control, the request after the deadline shall be accepted.

- .436 The CWD shall note on the claim form the date, disposition of the "good cause" request, and the new deadline when an extension has been granted.

- .437 Upon receipt of the requested information, clarification or the verification within the original or extended deadline(s), the CWD shall proceed with the processing of the claim(s) or the determination of potential eligibility for retroactive benefits under the provisions specified below for the court case(s) claimed.

- .438 Failure on the part of the claimant to respond without good cause as specified in .435 above within the original or extended deadline(s), shall result in the denial of that portion of the period claimed for which the information, clarification, or verification was requested. For any remaining portion of the period claimed, the CWD shall proceed with the processing of the claim(s).

.44 Establishing Claimant's Connection to AFDC

When the CWD has received a complete and internally consistent form and the form indicates that claimant

learned of the case by the mailer, the CWD shall proceed with the determination of potential eligibility for retroactive benefits under the section for the appropriate court case.

.441 When the claim form either shows that the claimant learned of the case other than by the mailer or does not indicate how the claimant learned of the case, the CWD shall review all existing records and shall deny the claim if no record can be found that the claimant applied for or received AFDC. This provision applies only when the CWD can certify that a listing of AFDC cases (such as the AFDC payroll or warrant register) was retained in addition to AFDC case records for the month(s)/year(s) claimed. In addition, this provision can be applied to claimants who were denied AFDC only when the CWD can certify that existing AFDC case records include all denials. The NOA denying the claim shall inform the claimant of the right to a state hearing.

.45 Order of Claims Processing

For claimants who are requesting retroactive benefits under more than one court case, the CWD shall determine the potential eligibility for retroactive benefits in the following order:

.451 North Coast Coalition v. Woods (see Section 50-014.5);

.452 Wood v. Woods (see Section 50-014.6);

.453 Wright v. Woods (see Section 50-014.7);

.454 Angus v. Woods (see Section 50-014.8).

.46 Review of Period Claimed - Defined

For the purposes of the case record review process specified in Sections .53, .63, .72 and .82 below, the CWD shall expand those months actually claimed to include three payment months immediately preceding and following each month claimed, so long as the expanded claim period falls within the periods of retroactivity specified in Sections .51, .61, .71 and .81 below.

.461 The purpose of this review is to determine a claimant's potential eligibility for actual

retroactive benefits during these expanded review months.

- (a) In the event that there is no case record information or the case record information is insufficient to compute actual retroactive benefits in accordance with Sections .536, .636, .725 or .827 below for the expanded review months, the claimant is not entitled to average retroactive benefits for the expanded claim period.
- (b) In the event that the claimant is ineligible for retroactive benefits, based on the case record information, during the expanded review months, no further action is required on the part of the CWD.
- (c) In the event that the claimant is eligible for retroactive benefits and the amount can be calculated in accordance with Sections .536, .636, .725 or .827 below, the CWD shall compute the actual retroactive benefits for the expanded review months.
 - (1) The CWD shall include the expanded review months showing the computation of benefits on the appropriate computation page(s) of the claimant's NOA approving back aid.

.5 Determination of Eligibility for Retroactive Benefits Under the North Coast Coalition v. Woods Court Order

.51 Class Membership

.511 Claimants potentially eligible to receive retroactive benefits are persons who:

- (a) Had a Unrelated Adult Male (UAM) living in the home; and
- (b) Had their AFDC cash aid reduced, denied, or discontinued for any period from August 1, 1976 through September 30, 1980 because of the application of MPP Sections 44-113.5 and 44-133.7 which deemed as income to the Assistance Unit (AU) a portion of the UAM's required contribution for his own living expenses.

.512 For those claimants who were denied/discontinued AFDC, the claimant must have been denied/discontinued, for any month claimed, solely because the AU was found financially ineligible because the amount of income deemed to the AU from the UAM, when added to other net nonexempt income of the AU, exceeded the Minimum Basic Standard of Adequate Care (MBSAC) for the size of the AU. See Appendix B to MPP Section 50-014 for MBSAC levels.

.52 Confirming Class Membership

The CWD shall confirm the claimant's class membership from the information contained in the case record. In the event the case record cannot be located or the information contained in the case record is insufficient to confirm or deny class membership, the CWD shall accept the responses to the class membership qualifying questions contained on the claim form, signed under penalty of perjury, as confirmation.

.53 Case Record Review

.531 For each month being claimed (payment month), (see .46 above), the CWD shall review the claimant's case record to determine:

- (a) If the claimant was receiving AFDC;
- (b) If the case record information confirms the presence of a UAM in the home; and
- (c) If the case record information is sufficient to compute the amount of retroactive benefits for the month claimed in accordance with .536 below.

.532 The case record documents listed below may assist the CWD in locating the information needed to compute the retroactive benefit. Not all of the information contained on these documents may be needed.

- (a) The UAM Contribution Statement;
- (b) The appropriate Statement of Facts (CA 2, CA 8, or CA 20);
- (c) The appropriate Monthly Eligibility Report(s) (CA 7);

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- (a) The CWD has received a complete and internally consistent claim form; and
- (b) The claimant indicated on the claim form that he/she was denied/discontinued and either;
 - (1) The CWD was unable to locate the claimant's case record and was unable to deny the claim in accordance with .441 above; or
 - (2) The CWD located the claimant's case record and it indicates that the claimant was denied/discontinued from AFDC.

•536 Calculation of Actual Retroactive Benefits

When the case record contains sufficient information to calculate the amount of the retroactive benefits, the CWD shall determine the amount of the retroactive benefits as follows:

- (a) Determine the potential entitlement by subtracting from the Maximum Aid Payment (MAP) level for the AU:
 - (1) All net nonexempt income from the budget month other than that deemed from the UAM;
 - (2) Other adjustments to the grant not associated with the deeming of income from the UAM (e.g., overpayment recoupments); and
 - (3) Any income from the UAM which was actually available to the AU in accordance with current MPP Section 44-113.5, as indicated by the case record.
- (b) Determine the AFDC cash aid already received by adding to the amount of the grant originally issued the following:
 - (1) Any supplemental payment issued in accordance with MPP Section 44-316

for those recipients requesting it prior to November 11, 1981; and

- (2) Any underpayment correction made associated with the month claimed (retroactive benefits awarded under any other court ordered retroactive implementation, excluding interest, are to be considered underpayment corrections for this purpose.).
- (c) Determine the net entitlement by subtracting the amount determined in (b) above from the amount of potential entitlement determined in (a) above.
- (d) Determine the amount of the potential retroactive benefit by adding to the net entitlement determined in (c) above any amount of overpayment, for the claim month which was recouped in a later month when the overpayment was caused by the deeming of UAM income to the AU, unless the claim includes the month in which the overpayment was recouped. The amount recouped includes recovery by grant adjustment or other means (i.e., demand letter, voluntary repayment, etc.) attributable to the month claimed.
- (e) The amount of the payable retroactive benefit is the amount determined in (d) above when the amount is a positive number.
 - (1) The CWD shall deny the month claimed when the amount determined in (d) above is zero or a negative number. In this situation, the claimant is ineligible for a retroactive benefit payment because he/she has already received the maximum amount of aid entitled to for the month claimed.
- (f) Determine the amount of the total retroactive benefits by calendar year, computed using case record information, by adding together the amount(s) determined in (e) above for each eligible month claimed in that calendar year. See MPP Section 50-014.92 for the computation of interest and delivery of the retroactive payment.

Example 1:

Claimant requests retroactive benefits for July 1977. The case record:

- (1) Confirms the presence of the UAM in the home;
- (2) Shows the AU consisted of three persons;
- (3) Shows there was \$40 in net nonexempt income from other than the UAM;
- (4) Shows a recoupment of a nonwillful overpayment of \$50 (not associated with the UAM);
- (5) Shows there was no actual income to the AU from the UAM;
- (6) Shows that the grant originally issued was \$266; and
- (7) Shows there was a willful overpayment associated with the failure to report the presence of the UAM for the month claimed which was recouped in December 1977 in the amount of \$109 (allowing \$297 to the AU to meet the MBSAC level for the children in the AU by adding to the grant of \$117 the amount of available resources of \$50 in disregards and \$130 in net nonexempt income.)

The amount of the payable retroactive benefits is as follows:

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\$ 356	MAP for three
- 40	Net nonexempt income
- 50	Nonwillful overpayment adjusted in 7/77
<u>0</u>	Actual income from UAM
\$ 266	Potential entitlement per .536(a)
 \$ 266	 AFDC grant issued (.536(b))
0	Net entitlement per .536(c)
+ 109	Amount of overpayment recouped because of nonreporting of UAM
<u>-----</u>	
\$ 109	Potential retroactive benefit per .536(d), also the payable retroactive benefit per .536(e)

Example 2:

Same case situation as in Example 1 except: The grant originally issued was \$176 (in addition to the deductions in Example 1, \$90 was computed from MPP Section 44-113.5 (UAM contribution) and deducted from MAP) and there was no overpayment caused by the presence of the UAM. However, the case record confirms that \$40 of the \$90 was actually made available to the AU by the UAM.

The amount of the payable retroactive benefit is as follows:

\$ 356	MAP for three
- 40	Net nonexempt income
- 50	Nonwillful overpayment adjusted in 7/77
<u>- 40</u>	Actual income from UAM
\$ 226	Potential entitlement per .536(a)
<u>- 176</u>	AFDC grant issued (.536(b))
50	Net entitlement per .536(c)
+ 0	Amount of overpayment recouped because of nonreporting of UAM
<u>-----</u>	
\$ 50	Potential retroactive benefit per .536(d), also the payable retroactive benefit per .536(e)

Example 3:

Same case situation as in Example 1 except: there was \$80 in available income to the AU from the UAM, the grant issued was \$206 (in addition to the \$176 original issued the claimant received \$30 in Green v. Obledo retroactive benefits for the month claimed) and there was no overpayment caused by the presence of the UAM.

The amount of the payable retroactive benefit is as follows:

\$ 356	MAP for three
- 40	Net nonexempt income
- 50	No willful overpayment adjusted in 7/77
- 80	Actual income from the UAM
\$ 186	Potential entitlement per .536(a)
	\$ 176 AFDC grant originally
	+ 30 issued <u>Green v. Obledo</u>
	retroactive benefit
	\$ 206 AFDC grant issued (.536(b))
- 206	
\$ <20>	Net entitlement per .536(c)
+ 0	Amount of overpayment recouped because of the presence of the UAM

\$ <20>	Potential retroactive benefit per .536(d)

In this example, the claimant is not eligible for a payable retroactive benefit because the amount of AFDC issued exceeds the claimant's entitlement. The claim for this month would be denied per .536(e)(1).

.54 Determining Eligibility for Cases which were Denied/Discontinued

.541 The CWD shall review the response to the AFDC eligibility questions contained on the back of the

claim form, regarding the names and ages of the children living in the home and annual income of the claimant during the month(s)/year(s) being claimed when the claimant did not receive AFDC, for completeness.

(a) For the purpose of this review, the response shall be considered complete when the claimant provides:

(1) The name and the birth date of at least one child living in the home during the month(s) claimed; and

(2) An annual income amount for the year(s) in which he/she has claimed any month of retroactive benefits.

.542 The CWD shall consider the completed information specified in .541(a) above consistent with the known case record information when:

(a) The name(s) and birth date(s) of the children provided on the claim form match those contained in the case record; and

(b) The amount of the annual income of the claimant provided on the claim form (when averaged over a 12-month period) appears "reasonable" when compared to the monthly income previously reported.

(1) For this purpose, consider the annual income provided "reasonable" when, after determining an average monthly amount, the average monthly amount is approximately the same or greater than the monthly income previously reported.

.543 In order to obtain the needed information (as specified in .541(a) above) or the clarification needed to explain any inconsistency, (as specified in .542 above), the CWD shall send the claimant the notice specified in .433 above.

.544 For those month(s) claimed in which the CWD has no case record or the case record information is insufficient to confirm the information provided regarding the name(s) and date(s) of birth of the

child(ren) or the annual income of the claimant, the CWD shall request on the notice specified in .433 above, the following verifications:

- (a) Evidence of the child(ren)'s date(s) of birth as provided for in MPP Section 42-111.1;
- (b) Evidence of the amount of annual income from a copy of either the federal or state income tax return for the year indicated; and/or
- (c) A statement signed under penalty of perjury that the documentation requested is unavailable.

.545 Determination of the claimant's financial eligibility, for the month(s) claimed for which the claimant did not receive AFDC and is a member of the class, shall be as follows:

- (a) From the name(s) and date(s) of birth of the child(ren) provided, determine the number who meet the age requirement for the month(s) claimed;
- (b) Add to the number arrived at in (a) above, one (the claimant) to arrive at the AU size.
- (c) From the annual income, compute the monthly average income (annual income divided by 12).
- (d) Compare the monthly average income determined in (c) above, to 185 percent of MBSAC for the AU size determined in (b), as specified in (d)(1) below to determine if the claimant would have been financially eligible for the month(s) claimed when the claimant did not receive AFDC.

(1) 185% of MBSAC

AU Size Year	1	2	3	4	5	6	7	8	9	10
1976	311	522	635	781	901	1016	1117	1234	1351	1469
1977+78	327	549	668	821	949	1069	1177	1299	1425	1547
1979	377	633	770	945	1092	1230	1354	1495	1637	1780
1980	435	731	888	1093	1262	1421	1563	1726	1891	2055

(e) The claimant is eligible for retroactive benefits for each month claimed when the AU has at least one child meeting the age requirement in the home, and the amount of the average monthly income is less than 185 percent of MBSAC for the AU as determined in .545(d) above.

(1) The CWD shall compute the amount of retroactive benefits for the month(s) of eligibility in accordance with .91 below (average retroactive benefits).

(2) The CWD shall deny the month(s) of ineligibility with an NOA informing the claimant of the right to a state hearing.

.6 Determination of Eligibility for Retroactive Benefits Under the Wood v. Woods Court Order

.61 Class Membership

Claimants potentially eligible to receive retroactive benefits are persons who:

.611 Had a stepparent living in the home, and

.612 Had their AFDC cash aid reduced, denied, or discontinued for any period from January 1, 1980 through September 30, 1981 because of the application of MPP Sections 43-105.5, 44-115, 44-106, and 44-133 which provided that the spouse's community property interest in the income

of a nonadoptive stepparent was to be considered unconditionally available to the spouse for the support of the stepchild(ren) receiving AFDC.

- (a) For those claimants who were denied/discontinued AFDC, the claimant must have been denied/discontinued, for any month claimed, solely because the AU was found financially ineligible because the amount of income deemed to the AU from the community property interest in the stepparent's income, when added to other net nonexempt income of the AU, exceeded the Minimum Basis Standard of Adequate Care (MBSAC) for the size of the AU. See Appendix B to MPP Section 50-014 for MBSAC levels.

.62 Confirming Class Membership

The CWD shall confirm the claimant's class membership from the information contained in the case record. In the event the case record cannot be located or the information contained in the case record is insufficient to confirm or deny class membership, the CWD shall accept the responses to the class membership qualifying questions contained on the claim form, signed under penalty of perjury, as confirmation.

.63 Case Record Review

- .631 For each month being claimed (payment month), (see .46 above), the CWD shall review the claimant's case record to determine:

- (a) If the claimant was receiving AFDC;
- (b) If the case record information confirms the presence of a stepparent in the home who was not included in the AU and who had none of his/her own children included in the AU; and
- (c) If the case record information is sufficient to compute the amount of retroactive benefits for the month claimed in accordance with .636 below.

- .632 The case record documents listed below may assist the CWD in locating the information needed to

compute the retroactive benefit. Not all of the information contained on these documents may be needed.

- (a) The Stepparent Income Statement (CA 2.2);
- (b) The appropriate Statement of Facts (CA 2, CA 8, or CA 20);
- (c) The appropriate Monthly Eligibility Report(s) (CA 7);
- (d) The budget worksheet;
- (e) Any NOA changing the amount of the grant because of the deeming of the spouse's community property interest in the income of the stepparent to the AU for the support of the stepparent's nonadopted child(ren); and
- (f) Any pertinent case narrative.

.633 In the event that the information on the claim form conflicts with the information contained in the case record, the CWD shall use the information contained in the case record to determine eligibility for and amount of retroactive benefits.

- (a) For the month(s) claimed in which the case record shows that the claimant is not a class member, the CWD shall deny those months claimed with an NOA informing the claimant of his/her right to a state hearing.

.634 The CWD shall compute the amount of the retroactive benefits in accordance with .91 below (average retroactive benefits) when, for that claim month(s);

- (a) The CWD has received a complete and internally consistent claim form; and
- (b) The claimant indicated on the claim that he/she received AFDC and either:
 - (1) The CWD was unable to locate the claimant's case record and was unable

to deny the claim in accordance with
.441 above; or

- (2) The CWD located the claimant's case record, but it did not contain sufficient information to calculate the retroactive benefit as specified in .636 below.

.635 The CWD shall determine the claimant's potential eligibility for and the amount of retroactive benefits for any month claimed in accordance with .64 below, when:

- (a) The CWD has received a complete and internally consistent claim form; and
- (b) The claimant indicated on the claim form that he/she was denied/discontinued and either:
 - (1) The CWD was unable to locate the claimant's case record and was unable to deny the claim in accordance with .441 above; or
 - (2) The CWD located the claimant's case record and it indicates that the claimant was denied/discontinued from AFDC.

.636 Calculation of Actual Retroactive Benefits

When the case record contains sufficient information to calculate the amount of the retroactive benefit, the CWD shall determine the amount of the retroactive benefit as follows:

- (a) Determine the potential entitlement by subtracting from the MAP level for the AU:
 - (1) All net nonexempt income from the budget month other than that computed from MPP Section 44-133.632 in effect from January 1, 1980 until September 30, 1981 (stepparent contribution);-
 - (2) Other adjustments to the grant not associated with the application of

that regulation (e.g., overpayment recoupments); and

- (3) Any cash made available to the AU by the stepparent, based on information contained in the existing case record. For purposes of this section, the amount of cash made available to the AU shall be determined from information on the Stepfather Questionnaire (CA 2.2) in effect for the claim month as follows:

- (A) If the parent answered "no" to question number 2 (Is all or a part of your husband's income available for you to use for your children?), proceed to question number 6 and determine any amounts the parent reported in the third, fourth, and sixth boxes (i.e. deposited in my separate checking or savings account, turned over to me to use for our family expenses, kept in cash for both of us to use). The total of these amounts is the amount of cash that the stepparent made available to the AU.

- (B) If the parent answered "yes" to question number 2 (Is all or a part of your husband's income available for you to use for your children?), proceed to question number 6 and determine any amounts the parent reported in the first, third, fourth, and sixth boxes (i.e. deposited in a joint checking or savings account, deposited in my separate savings or checking account, turned over to me to use for our family expenses, kept in cash for both of us to use). The total of these amounts is the amount of cash

the stepparent made available to the AU.

- (C) Compare the amount of cash made available to the AU, as determined in (A) or (B) above, to the net stepparent income calculated by subtracting prior child support liability, mandatory deductions, and the MBSAC for the stepparent unit from the stepparent's gross income. The amount to be subtracted from the MAP to determine potential entitlement for retroactive benefits is the lessor of the net stepparent income or the amount determined in (A) or (B) above.
- (b) Determine the AFDC cash aid already received by adding to the amount of the grant originally issued the following:
 - (1) Any supplemental payment issued in accordance with MPP Section 44-316 for those recipients requesting it prior to November 11, 1981; and
 - (2) Any underpayment correction made associated with the month claimed (retroactive benefits awarded under any other court ordered retroactive implementation, excluding interest, are to be considered underpayment corrections for this purpose.).
 - (c) Determine the net entitlement by subtracting the amount determined in (b) above from the amount of potential entitlement determined in (a) above.
 - (d) Determine the amount of the retroactive benefit by adding to the net entitlement determined in (c) above any amount of an overpayment for the claim month which was recouped in a later month, when the overpayment was caused by the deeming of stepparent income to the AU, unless the claim includes the month in which the

overpayment was recouped. The amount recouped includes recovery by grant adjustment or other means (i.e., demand letter, voluntary repayment, etc.) attributable to the month claimed.

(e) The amount of the payable retroactive benefit is the amount determined in (d) above when the amount is a positive number.

(1) The CWD shall deny the month claimed when the amount determined in (d) above is zero or a negative number. In this situation, the claimant is ineligible for a retroactive benefit payment because he/she has already received the maximum amount of aid entitled to for the months claimed.

(f) Determine the amount of the total retroactive benefits for a calendar year, computed using case record information, by adding together the amount(s) determined in (e) above for each eligible month claimed in that year. See MPP Section 50-014.92 for the computation of interest and delivery of the retroactive payment.

Example 1

Claimant requests retroactive benefits for November 1980. The case record:

- (1) Confirms that the stepparent lived in the home and neither he/she nor any of his/her own children received AFDC;
- (2) Shows the AU consisted of three persons;
- (3) Shows there was \$40 in net nonexempt income from other than the stepparent;

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- (4) Shows there was no other adjustment to the AFDC grant;
- (5) Shows that the stepparent did not provide any cash to the AU to meet the needs of the AU;
- (6) Shows that the grant originally issued was \$433; and
- (7) Shows there was a willful overpayment associated with the failure to report the presence of the stepparent for the month claimed which was recouped in February 1981 in the amount of \$127 (allowing \$386 to the AU to meet the MBSAC level for the children in the AU by adding to the grant of \$165 the amount of available resources of \$50 in disregards and \$171 in net nonexempt income).

The amount of the payable retroactive benefit is as follows:

\$ 473	MAP for three
- 40	Net nonexempt income
- 0	Other adjustments
<u>- 0</u>	Cash provided by stepparent
\$ 433	Potential entitlement per .636(a)
<u>- 433</u>	AFDC grant issued (per .636(b))
0	Net entitlement per .636(c)
+ 127	Amount of overpayment recouped because of nonreporting of stepparent
<u>\$ 127</u>	Potential retroactive benefit per .636(d), also, the

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payable retroactive benefit

per • 536(c)

Example 2:

Same case situation as in Example 1 except: The grant originally issued was \$302 (in addition to the \$40 net nonexempt income, \$131 was computed from MPP, Section 44-133.632 (stepparent computation) and deducted from MAP) and there was no overpayment caused by the stepparent living in the home. However, the case record confirms that \$60 was actually given to the AU by the stepparent to meet their needs.

The amount of the payable retroactive benefit is as follows:

\$ 473	MAP for three
- 40	Net nonexempt income
- 0	Other adjustments
<u>60</u>	Cash provided by stepparent
\$ 373	Potential entitlement per .636(a)
- 302	AFDC grant issued (per .636(b))
<u>71</u>	Net entitlement per .636(c)
+ 0	Amount of overpayment recouped because of the stepparent living in the home
<u>71</u>	Potential retroactive benefit per .636(d), also the payable retroactive benefit per .636(e)

Example 3:

Same case situation as in Example 1 except: there was \$120 in cash given to the AU by the stepparent to meet their needs, the grant issued was \$324 (in addition to the \$302 originally issued, the claimant received a Green v. Obledo retroactive benefit of \$22) and there was no overpayment caused by the stepparent living in the home.

The amount of the payable retroactive benefit is as follows:

\$ 473	MAP for three
- 40	Net nonexempt income
- 0	Other adjustments
<u>- 120</u>	Cash provided by stepparent
\$ 313	Potential entitlement per .636(a)
- 324	AFDC grant issued (per .636(b))
<u><11></u>	Net entitlement per .636(c)
+ 0	Amount of overpayment recouped because of the stepparent living in the home
<u>\$ <11></u>	Potential retroactive benefit per .636(d)

In this example, the claimant is not eligible for a payable retroactive benefit because the amount of AFDC issued exceeds the claimant's entitlement. The claim for this month would be denied per .636(e)(1).

.64 Determining Eligibility for Cases which Were Denied/Discontinued

- .641 The CWD shall review the response to the AFDC eligibility questions on the back of the claim form regarding the names and ages of the children living in the home and the annual income of the

claimant and the stepparent during the month(s)/year(s) being claimed when the claimant did not receive AFDC, for completeness.

(a) For the purpose of this review, the response shall be considered complete when the claimant provides:

(1) The name and the birth date of at least one child living in the home during the month(s) claimed; and

(2) Annual income amounts for both the claimant and stepparent for the year(s) in which he/she has claimed any month of retroactive benefits.

.642 The CWD shall consider the completed information specified in .641(a) above consistent with the known case record information when:

(a) The name(s) and birth date(s) of the child(ren) provided on the claim form match those contained in the case record; and

(b) The amount of the combined annual income of the claimant and stepparent provided on the claim form (when averaged over a 12-month period) appears "reasonable" when compared to the monthly income previously reported.

(1) For this purpose, consider the combined annual income provided "reasonable" when, after determining its average monthly amount, the average monthly amount is approximately the same or greater than the monthly income previously reported.

.643 In order to obtain the needed information (as specified in .641(a) above) or the clarification needed to explain any inconsistency as specified in .642 above the CWD shall send the claimant the notice specified in .433 above.

.644 For those month(s) claimed in which the CWD has no case record or the case record information is insufficient to confirm the information provided regarding the name(s) and date(s) of birth of the

child(ren) or the annual income of the claimant and stepparent, the CWD shall request, on the notice specified in .433 above, the following verifications:

- (a) Evidence of the child(ren)'s date(s) of birth as provided for in MPP Section 42-111.1;
- (b) Evidence of the amount of the combined annual income of the claimant and stepparent from either a copy of the federal or state income tax return for the years indicated; and/or
- (c) A statement signed under penalty of perjury that the documentation requested is unavailable.

.645 Determination of the claimant's financial eligibility for the month(s) claimed for which the claimant did not receive AFDC and is a member of the class, shall be as follows:

- (a) From the name(s) and date(s) of birth of the child(ren) provided, determine the number who meet the age requirement for the month(s) claimed;
- (b) Add to the number arrived at in (a) above, one (the claimant) to arrive at the AU size.
- (c) From the amount of only the claimant's annual income, compute the monthly average of that income (annual income divided by 12).
- (d) Compare the monthly average income determined in (c) above, to 185 percent of MBSAC for the AU size determined in (b) as specified in (d)(1) below to determine if the claimant would have been financially eligible for the month(s) claimed when the claimant did not receive AFDC.

(1) 185% of MBSAC:

AU Size

Year	1	2	3	4	5	6	7	8	9	10
1980	435	731	888	1093	1262	1421	1563	1726	1891	2055
1981	459	755	936	1112	1269	1426	1565	1706	1850	2011

(e) The claimant is eligible for retroactive benefits for each month claimed when the AU has at least one child in the home meeting the age requirement and the amount of the claimant's monthly income is less than 185 percent of MBSAC for the AU as determined in .645(d) above.

(1) The CWD shall compute the amount of retroactive benefits for the month(s) of eligibility in accordance with .91 below (average retroactive benefits).

(2) The CWD shall deny the month(s) of ineligibility with a NOA informing the claimant of the right to a state hearing.

.7 Determination of Eligibility for Retroactive Benefits Under the Wright v. Woods Court Order.

.71 Class Membership

Claimants potentially eligible to receive retroactive benefits are persons whose AFDC cash aid, together with their total outside income, was less than 100 percent of MAP for the AU in the payment month during the period from July 18, 1976 through December 31, 1980.

.711 The CWD shall confirm the claimant's class membership from the information contained in the case record. In the event the case record cannot be located or the information contained in the case record is insufficient to confirm or deny class membership, the CWD shall accept the responses to the class membership qualifying

questions contained on the claim form, signed under penalty of perjury, as confirmation.

.72 Case Record Review

.721 For each month being claimed, (payment month), (see .46 above), the CWD shall review the claimant's case record to determine:

- (a) If the claimant was receiving AFDC;
- (b) If the case record information confirms that there was a drop or cessation in the AU's outside income compared to the corresponding budget month; and
- (c) If the case record information is sufficient to compute the amount of retroactive benefits for the month claimed in accordance with .725 below.

.722 The case record documents listed below may assist the CWD in locating the information needed to compute the correct grant. Not all of the information contained on these documents may be needed.

- (a) A Request for Supplemental Payment (CA 40);
- (b) The appropriate Statement of Facts (CA 2, CA 8, or CA 20);
- (c) The appropriate Monthly Eligibility Report(s) (CA 7);
- (d) The budget worksheet;
- (e) Any NOA changing the amount of the grant because of the drop in income or the action taken related to the request for a supplemental payment; and
- (f) Any pertinent case narrative.

.723 In the event that the information on the claim form conflicts with the information contained in the case record, the CWD shall use the information contained in the case record to determine eligibility for and amount of retroactive benefits.

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- (a) For the month(s) claimed in which the case record shows that the claimant is not a class member, the CWD shall deny those months claimed with an NDA informing the claimant of his/her right to a state hearing.

.724 For those months claimed in which the CWD received a complete and internally consistent claim form, was unable to locate the case record, and was unable to deny the claim in accordance with .441 above or found the case record but it did not contain sufficient information to calculate the retroactive benefit as specified in .725 below, the CWD shall process the claim in accordance with .73 below.

.725 Calculation of Actual Retroactive Benefits

For the month(s) claimed in which the case record information confirms that the claimant's outside income dropped or stopped, and the case record contains sufficient information to calculate the amount of the retroactive benefits, the CWD shall determine the amount of the retroactive benefits for the month(s) claimed (see .46 above) as follows:

- (a) Determine the potential entitlement by subtracting from the MAP level for the AU (see Appendix A to MPP Section 50-014 for MAP levels):
 - (1) The net nonexempt income which was actually received in the month claimed (payment month);
 - (2) The \$30 and one-third disregard used in computing the net nonexempt income which was actually received in the month claimed; and
 - (3) Other allowable adjustments from MAP (e.g., overpayment recoupments).
- (b) Determine the AFDC cash aid already received by adding to the amount of the grant originally issued the following:

- (1) Any supplemental payment issued in accordance with MPP Section 44-316 for those recipients requesting it prior to November 11, 1981; and
 - (2) Any underpayment correction made associated with the month claimed (retroactive benefits awarded under any other court ordered retroactive implementation, excluding interest, are to be considered underpayment corrections for this purpose).
- (c) Determine the net entitlement by subtracting the amount of AFDC cash aid received, as determined in (b) above, from the amount of potential entitlement determined in (a) above.
- (d) The amount of the payable retroactive benefit is the amount determined in (c) above when the amount is a positive number.
- (1) The CWD shall deny the month claimed when the amount determined in (c) above is zero or a negative number. In this situation, the claimant is ineligible for a retroactive benefit payment because he/she has already received the maximum amount of aid entitled to for the month claimed.
- (e) Determine the amount of the total retroactive benefits for a calendar year, computed using case record information, by adding together the amount(s) determined in (d) above for each eligible month claimed in that year. See MPP Section 50-014.92 for the computation of interest and delivery of the retroactive payment.

Example 1:

Claimant requests retroactive benefits for July 1977. The case record:

- (1) Confirms a drop in income between the budget month (May)

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and July, the payment month
(month claimed);

- (2) Shows the AU consisted of three persons;
- (3) Shows there was \$150 in net earnings received in the budget month;
- (4) Shows there was \$40 in net nonexempt earnings received in the month claimed;
- (5) Shows the \$30 and one-third disregard for the month claimed equaled \$50;
- (6) Shows a recoupment of a nonwillful overpayment of \$50;
- (7) Shows the amount of the grant originally issued was \$156; and
- (8) Shows no supplemental payment was issued.

The amount of the payable retroactive benefit is as follows:

\$ 356	MAP for three
- 40	Net nonexempt income received in month claimed
- 50	\$30 and one-third disregard available in the month claimed
- 50	Nonwillful overpayment adjusted in July 1977

\$ 216	Potential entitlement per .725(a)
- 156	AFDC grant issued (.725(b))
\$ 60	Potential retroactive benefit per .725(c), also the payable retroactive benefit per .725(d)

Example 2:

Same case situation as in Example 1 except: the AU also had income deemed from a UAM, and the claimant requested retroactive benefits under North Coast Coalition v. Woods for the same claim month; and it was determined under .536 above that the UAM actually made \$40 available to the AU in July. The AU received \$66 in the original grant payment and \$50 in North Coast retroactive benefits.

The amount of the payable retroactive benefit is as follows:

\$ 356	MAP for three
- 40	Net nonexempt income received in month claimed
- 50	\$30 and one-third disregard available in the month claimed
- 50	Nonwillful overpayment adjusted in July 1977
- 40	Income from the UAM actually made available to AU
<u>\$ 176</u>	Potential entitlement per .725(a)
\$ 66	AFDC grant originally issued
+ 50	<u>North Coast Coalition</u> retroactive benefit
<u>\$ 116</u>	AFDC grant issued per .725(b)
<u>-116</u>	
\$ 60	Potential retroactive benefit per .725(c), also the payable retroactive benefit per .725(d)

Example 3:

Same case situation as in Example 2 except: the UAM actually made available \$80 to the AU in July, the claimant received \$10 in North Coast benefits, and received \$30 in retroactive benefits under Green v. Obledo.

The computation of retroactive benefits is as follows:

\$ 356	MAP for three
- 40	Net nonexempt income received in month claimed
- 50	\$30 and one-third disregard available in the month claimed
- 50	Nonwillful overpayment adjusted in 7/77
- 80	Income from the UAM actually made available to AU
<u>\$ 126</u>	Potential entitlement per .725(a)
\$ 66	AFDC grant originally issued
+ 10	<u>North Coast Coalition</u> retroactive benefit
+ 30	<u>Green vs. Obledo</u> retroactive benefit
<u>\$ 106</u>	AFDC grant issued per .725(b)
<u>- 106</u>	
\$ 20	Potential retroactive benefit per .725(c), also the payable retroactive benefit per .725(d)

.73 Determining Eligibility for Average Retroactive Benefits

- .731 When the CWD is unable to locate the case record as specified in .72 above and the claimant is requesting retroactive benefits for three or more consecutive months in any calendar year of the claim period, the CWD shall review the response to the inquiry regarding the claimant's income source, the date income started and the date(s)

the income stopped or dropped. For purposes of this review:

- (a) The response shall be considered complete when the claimant provides: (1) the source of the income; (2) the date that the income started; and (3) the date that the income dropped or stopped.
 - (b) The response shall be considered internally consistent when the completed information covers the month(s) being claimed.
- .732 The CWD may request missing information (specified in .731(a) above) or clarification by sending the claimant the notice specified in .433 above when the response is not complete or the information does not cover the month(s) being claimed.
- .733 The CWD may obtain verification of the information provided, as specified in .731(a), through a collateral contact made to the source of the claimant's income. Circumstances in which a collateral contact may be warranted include, but are not limited to:
- (a) when the source of the income indicated is not subject to frequent fluctuations, such as Social Security Benefits, Unemployment Insurance, etc.; and
 - (b) The date(s) that the income started and dropped or stopped do not correspond to the month(s) being claimed.
 - (1) In the event the collateral contact contradicts the information provided by the claimant, the CWD shall use the information obtained through the collateral contact to establish the month(s) of average retroactive benefits. The CWD shall deny any month(s) claimed, in which the collateral contact did not confirm the claimant's eligibility for retroactive benefits, with an NDA informing the claimant of his/her right to a state hearing.

.734 For those month(s) claimed which are not subject to the review specified in .731, (i.e., less than three consecutive months per calendar year), or which do not warrant a collateral contact specified in .733, or for which the collateral contact confirms entitlement, the CWD shall compute the amount of average retroactive benefits in accordance with .91 below (average retroactive benefits).

.8 Determination of Potential Eligibility for Retroactive Benefits Under the Angus vs. Woods Court Order.

.81 Class Membership

Claimants potentially eligible to receive retroactive benefits are persons whose AFDC cash aid was reduced in order to recoup a willful overpayment and the amount of the aid received, when added to the amount of the claimant's net nonexempt and exempt income, was insufficient to meet: (a) his/her housing and utility costs; or (b) the Minimum Basic Standard of Adequate Care (MBSAC) for the number of children in the AU for the payment month during the period from September 1, 1977 through December 31, 1980.

.811 The CWD shall confirm the claimant's class membership from the information contained in the case record. In the event the case record cannot be located or the information contained in the case record is insufficient to confirm or deny class membership, the CWD shall accept the responses to the class membership qualifying questions contained on the claim form, signed under penalty of perjury, as confirmation.

.82 Case Record Review

.821 For each month being claimed, (payment month), (see .46 above), the CWD shall review the claimant's case record to determine:

- (a) If the claimant was receiving AFDC;
- (b) If the case record information confirms there was a willful overpayment recouped by grant adjustment in the month claimed;
- (c) If the claimant had a spouse who lived in the home during the period claimed; and

- (d) If the case record information is sufficient to compute the amount of retroactive benefits for the month claimed in accordance with .827 below.
- (e) The case record documents listed below may assist the CwD in locating the information needed to compute the retroactive benefit. Not all of the information contained on these documents nor the documents themselves may be needed.
 - (1) The Application for Food Stamps (DFA 285, DFA 285A, or TEMP DFA 285-A);
 - (2) The appropriate Statement of Facts (CA 2, CA 8, or CA 20);
 - (3) The appropriate Monthly Eligibility Report(s) (CA 7);
 - (4) The budget worksheet;
 - (5) Any NOA related to the cause/recoupment of the willful overpayment; and
 - (6) Any pertinent case narrative.

.822 In the event that the information on the claim form conflicts with the information contained in the case record, the CwD shall use the information contained in the case record to determine eligibility for and amount of retroactive benefits.

- (a) For the month(s) claimed in which the case record shows that the claimant is not a class member, the CwD shall deny those months claimed with an NOA informing the claimant of his/her right to a state hearing.

.823 The CwD shall flag each claim which indicates, from either the information provided on the claim form or in that contained in the case record, that the claimant's spouse, who lived in the home during the month(s) and year(s) claimed, no longer lives with the claimant. The CwD must be alert for a claim being submitted by the other spouse.

- (a) For those claims which do not require flagging, the CWD shall proceed with the determination of the amount of retroactive benefits and issuance of the retroactive payment.
- (b) For claims which have been flagged, the CWD shall proceed with the determination of the monthly retroactive benefits specified in .824 through .827(a)(6) below. For these claims, the determination of the total retroactive benefits for each calendar year, specified in .827(a)(7) and/or .912 below, shall be held pending the determination of the receipt of a claim from the other spouse no longer in the home. In these situations, the CWD may exceed the 120 day processing period for the claim first received, as allowed in .323(b) above, so long as the processing deadline is met for the claim received from the other spouse.
 - (1) The CWD shall send a letter to the claimant informing him/her that he/she is entitled to retroactive benefits but the exact amount of those benefits cannot be determined until it is known if the spouse, no longer living in the home, will also claim retroactive benefits.
- (c) If the CWD receives a claim from the other spouse, the determination of the amount of retroactive benefits, specified in .827(a)(7) and/or .912 below, for the month(s) and year(s) jointly claimed shall be processed together.
- (d) In the event that either spouse claims additional months, the determination of retroactive benefits, as specified in .824 through .827 below, for the additional months shall be made separate from the determination for those months jointly claimed.
- (e) When the CWD has determined that the other spouse, no longer in the home, did not file a claim for retroactive benefits, the CWD

shall proceed with the determination of the amount of retroactive benefits and issuance of the retroactive payments to the initial claimant.

.824 For those months claimed in which the CWD receives a complete and internally consistent claim form, was unable to locate the case record, and was unable to deny the claim in accordance with .441 above or found the case record but it did not contain sufficient information, other than housing or utility costs, to calculate the retroactive benefit as specified in .827 below, the CWD shall determine the amount of the retroactive benefits in accordance with .91 below (average retroactive benefits). For those months claimed when only the housing or utility cost information contained in the case record is insufficient to determine the retroactive benefit, the CWD shall determine the amount of the benefit in accordance with .826 below.

.825 For the month(s) claimed in which the case record information confirms that the claimant's grant was reduced because of the recoupment of a willful overpayment, the CWD shall determine whether the willful overpayment was caused by the claimant's failure to report either the presence of a UAM in the home or the presence or income of the stepparent living in the home.

(a) When the reason for the willful overpayment was a result of the failure to report the presence or income of either the UAM or stepparent, the CWD shall determine if the claimant is also claiming retroactive benefits under North Coast Coalition v. Woods (MPP Section 50-014.5) or Wood v. Woods (MPP Section 50-014.6) and, if so, whether the amount of the overpayment recoupment was included in the computation of retroactive benefit as specified in .536 or .636 above.

(b) When the total amount of the overpayment recoupment was used in the computation specified in .536(d) or .636(d) above, the CWD shall deny that month claimed because the recoupment has been fully refunded to

the claimant under either MPP Section 50-014.5 or MPP Section 50-014.6.

.826 For the month(s) claimed in which the case record information confirms that the claimant's grant was reduced because of the recoupment of a willful overpayment, the CWD shall determine if the claimant was certified for food stamps.

(a) For the month(s) claimed in which the case record information indicates a certification for food stamps and is sufficient to determine the amount of the housing and utility costs, the CWD shall determine the amount of the retroactive benefits for those months in accordance with .827 below.

(b) For the month(s) claimed in which the case record information indicates that the claimant was not certified for food stamps or the case record information is insufficient to determine the housing costs used in the calculation of the food stamp allotment, the CWD shall review the claim form (TEMP 1620) regarding the response to the question regarding receipt of food stamps and housing costs.

(1) When the claimant provided the housing costs for the month(s) claimed, the CWD shall determine the amount of retroactive benefits in accordance with .827 below.

(2) When the claimant did not provide the housing costs for the month(s) claimed, the CWD shall send the claimant a notice requesting the completion of this information. A copy of the claim form shall be attached to the notice. The claimant will be allowed 30 days from the date of the notice to respond to the request. If the claimant fails to provide a response to the request for each month claimed, the CWD shall determine the amount of the retroactive benefits for those months based on that determined in

accordance with .827(a)(1), (2) and (5), (MBSAC greater than cash) or .911(d)(1) (average retroactive benefit) below, whichever is greater. For the months in which housing costs are provided in response to this request, the CWD shall determine the amount of retroactive benefits as specified in .827 below.

.827 For the month(s) claimed for which it has been confirmed that:

(a) The case record contains sufficient information to calculate the amount of the retroactive benefit or the combination of the case record information and the information provided on the claim form regarding the housing cost is sufficient to calculate the amount of the retroactive benefit, the CWD shall determine the amount of the retroactive benefits as follows:

(1) Determine the amount of the AU's cash for the month claimed.

(A) For the purpose of this determination, cash is defined as the total of:

(i) The amount of AFDC received in the month claimed;

(ii) The amount of any underpayment correction made associated with the month claimed. (Retroactive benefits awarded under any other retroactive regulation implementing a court decision, excluding interest, are to be considered an underpayment correction.);

(iii) The amount of net nonexempt income received in the month claimed; and

- (iv) The amount of any exempted income received in the month claimed. See MPP Section 44-111.2 for what is exempt from consideration as income.
- (2) Determine the MBSAC level for the number of children included in the AU during the month claimed. See Appendix B to MPP Section 50-014 for MBSAC levels.
- (3) Determine the housing and utility costs of the AU for the month claimed.
 - (A) For claimants who were certified for food stamps in the month claimed and whose case record provides the housing and utility costs used in the food stamp computation, the CWD shall use the amounts contained in the case record.
 - (B) For claimants who were not certified for food stamps in the month claimed or those who were certified for food stamps but the case record information is insufficient to determine the housing and/or utility costs, the CWD shall use the housing costs provided on the claim form and the Standard Utility Allowance (SUA) specified (i) below for the month claimed.
 - (i) The SUA for any month claimed in 1976, 1977, 1978, and 1979 is \$57. The SUA for any month claimed in 1980 is \$74.
- (4) Compare the MBSAC amount determined in (2) to the housing and utility costs determined in (3).

- (A) When the amount of the MBSAC for the number of children in the AU is equal to or exceeds the amount of the AU's housing and utility costs, the CWD shall determine the claimant's entitlement as specified in (5) below.
 - (B) When the amount of the MBSAC for the number of children in the AU is less than the AU's housing and utility costs, the CWD shall determine the claimant's entitlement as specified in (6) below.
- (5) The claimant is entitled to retroactive benefits when the amount of the MBSAC for the number of children in the AU exceeds the amount of the AU's cash for the month claimed. The amount of the retroactive benefit shall be calculated by subtracting from the MBSAC level determined in (2) the cash determined in (1).
- (A) The month claimed shall be denied with an NOA informing the claimant of his/her right to a state hearing when the amount of the AU's cash is equal to or greater than the MBSAC for the number of children in the AU.
- (6) The claimant is entitled to retroactive benefits when the amount of the housing and utility costs exceeds the amount of the AU's cash for the month claimed. The amount of the retroactive benefit shall be calculated by subtracting from the housing and utility amount determined in (3) the cash determined in (1).
- (A) The month claimed shall be denied with an NOA informing the claimant of his/her right

to a state hearing when the amount of the AU's cash is equal to or greater than the housing and utility cost of the AU.

- (7) Determine the amount of the total retroactive benefits computed using case record information for each calendar year by adding together the amount(s) determined in (a)(5) and (a)(6) above for each eligible month claimed in that year. See MPP Section 50-014.92 for the computation of interest and delivery of the retroactive payment.

Example 1:

Claimant requests retroactive benefits for December 1977. The case record:

- (1) Confirms the receipt of AFDC in the claim month;
- (2) Confirms there was a willful overpayment being recovered through grant adjustment;
- (3) Shows that the AU consisted of the caretaker relative and two children;
- (4) Shows there was \$40 in net nonexempt income in the claim month;
- (5) Shows there was \$50 in exempted income in the claim month;
- (6) Shows that the grant originally issued was \$177;
- (7) Shows the amount of the overpayment recoupment was \$109; and
- (8) Shows that the claimant was not on food stamps.

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The claimant states that for this period, the AU's monthly housing costs were \$150.

The amount of the retroactive benefit is as follows:

\$ 177	AFDC grant issued
+ 40	Net nonexempt income
<u>+ 50</u>	Exempt income
\$ 267	Total case per .827(a)(1)
\$ 297	MBSAC for two (.827(a)(2))
\$ 150	Housing costs from claim form
<u>+ 57</u>	SUA per .827(a)(3)(B)
\$ 207	Housing and Utility Costs (.827(a)(3))

Is MBSAC for the number of children equal to or greater than the Housing and Utility Costs? YES.

Is MBSAC for the number of children greater than the total cash of the AU? YES.

\$ 297	MBSAC for two
<u>- 267</u>	Total cash
\$ 30	Retroactive Benefit per .827(a)(5)

Example 2:

Same case situation as in Example 1 except: the claimant received food stamps in the month claimed and the case record indicates that the AU's housing costs were \$255 and the utility costs were \$55, the amount of the grant originally issued was \$207; and the amount of the overpayment recouped was \$90.

The amount of the retroactive benefit is as follows:

\$ 207	AFDC grant issued
+ 40	Net nonexempt income
<u>+ 50</u>	Exempt income
\$ 297	Total cash per .827(a)(1)
\$ 297	MBSAC for two (.827(a)(2))
\$ 255	Housing costs
<u>+ 55</u>	Utility costs
\$ 310	Housing and Utility Costs (.827(a)(3))

Is MBSAC for the number of children equal to or greater than the Housing and Utility Costs? NO.

Are Housing and Utility Costs greater than the total cash of the AU? YES.

\$ 310	Housing and Utility Costs
<u>- 297</u>	Total Cash
\$ 13	Retroactive Benefit per .827(a)(6)

- .828 For claimants who are claiming benefits for October 1980, November 1980, or December 1980, the CWD shall review the case record for the payment month of January 1981 to determine whether or not recoupment of the willfully caused overpayment through grant adjustment was ceased in accordance with All-County Letter No. 80-73, dated December 3, 1980.

- (a) For those claims in which the recoupment was ceased effective January 1981, no further action is necessary. The CWD shall proceed with the computation of interest and delivery of the retroactive payment contained in MPP Section 50-014.92.
- (b) For those claims in which it is discovered that the January 1981 grant was reduced as a result of recouping the willfully caused overpayment through grant adjustment, the CWD shall refund the amount of the overpayment recouped after December 1980 in accordance with current underpayment correction regulations, contained in MPP Section 44-340, as modified by the Edwards v. McMahon court order.
 - (1) For the approved month(s) and year(s) claimed during the retroactive period the CWD shall proceed with the computation of interest and delivery of the retroactive payment in accordance with MPP Section 50-014.92.

•9 Computation and Delivery of the Retroactive Payment

•91 Average Retroactive Benefit

•911 The CWD shall use the average monthly retroactive benefit amount for each court case as follows:

- (a) North Coast Coalition v. Woods (MPP Section 50-014.5): \$101.00.
- (b) Wood v. Woods (MPP Section 50-014.6): \$176.78.
- (c) Wright v. Woods (MPP Section 50-014.7):

Approved Months Claimed	Amount
July 1967 - December 1976	\$162.85
January 1977 - June 1977	172.74
July 1977 through July 1979	181.32
August 1979 through June 1980	82.00
July 1980 through December 1980	95.00

(d) Angus v. Woods (MPP Section 50-014.8):

- (1) For claimants who indicated "yes" to housing costs being greater than the grant plus other income: \$47.92.
- (2) For claimants who indicated "yes" to the grant being reduced below the MBSAC level for the number of children: \$30.00.

.912 The CWD shall compute the amount of the average retroactive benefit amount to be awarded for each court case by multiplying the number of months claimed for each calendar year in which average retroactive benefits are to be used as determined in .534, .545(e)(1), .634, .645(e)(1), .734, .824, and/or .826(b)(2) above, by the appropriate amount specified in .911 above.

Example:

A claimant is eligible for the average retroactive benefit under North Coast Coalition v. Woods from July 1977 through March 1978 and Wright v. Woods for August 1978, September 1978, October 1979, and November 1979.

The computation of the average retroactive benefits is as follows:

North Coast Coalition v. Woods:

1977: 6 months x \$101.00 = \$606.00

1978: 3 months x \$101.00 = \$303.00

Wright v. Woods:

1978: 2 months x \$181.32 = \$362.64

1979: 2 months x \$ 82.00 = \$164.00

.92 Computation of Interest and Retroactive Payment

.921 The CWD shall use the percentage specified below to compute the amount of interest on the payable retroactive benefits for a calendar year.

(a) The percentage of the total retroactive benefits payable as interest for a calendar year for each court case is as follows:

(1) North Coast Coalition v. Woods and Wright v. Woods for 1976: 73%

(2) North Coast Coalition v. Woods and Wright v. Woods for 1977: 70%

(3) Angus v. Woods for 1977: 65%

(4) North Coast Coalition v. Woods, Wright v. Woods and Angus v. Woods for 1978: 63%

(5) North Coast Coalition v. Woods, Wright v. Woods and Angus v. Woods for 1979: 56%

(6) North Coast Coalition v. Woods, Wright v. Woods, Wood v. Woods and Angus v. Woods for 1980: 49%

(7) Wood v. Woods for 1981: 42%

.922 The CWD shall multiply the average retroactive benefits for that calendar year for each court case as determined in .912 above by the appropriate percentage specified in .921(a) above for that calendar year to arrive at the amount of interest for each court case.

Example:

North Coast Coalition v. Woods

Average Retroactive Benefits For:	<u>1977</u>	<u>1978</u>	<u>1979</u>
	\$606.00	\$303.00	\$ -0-
Times the Appropriate Percentage:	x <u>70%</u>	x <u>63%</u>	x <u>N/A</u>
Interest:	\$424.20	\$190.89	\$ -0-

Wright v. Woods

Average Retroactive Benefits For:	<u>1977</u>	<u>1978</u>	<u>1979</u>
	\$ 0	\$362.64	\$164.00
Times the Appropriate Percentage:	x <u>N/A</u>	x <u>63%</u>	x <u>56%</u>
Interest:	\$ 0	\$228.46	\$ 91.84

.923 The CWD shall multiply the actual retroactive benefits for that calendar year for each court

case as determined in .536(f), .636(f), .725(e) or .827(a)(7) above by the appropriate percentage specified in .921 above to arrive at the amount of interest for that calendar year under each court case.

Example:

North Coast Coalition v. Woods

Actual Retroactive Benefits For:	<u>1977</u>	<u>1978</u>	<u>1979</u>
	\$ -0-	\$450.00	\$250.00
Times the Appropriate Percentage:	$\frac{x}{\$ -0-} \frac{N/A}{-0-}$	$\frac{x}{\$ 283.50} \frac{63\%}{-0-}$	$\frac{x}{\$ 140.00} \frac{56\%}{-0-}$
Interest:			

.924 Computation of Claimant's Retroactive Payment

(a) The CWD shall add the amount of the average retroactive benefit for each calendar year for each court case as determined in .912 above to the amount of interest determined in .922 above for that calendar year and that court case.

Example:

North Coast Coalition v. Woods

Average Retroactive Benefits For:	<u>1977</u>	<u>1978</u>	<u>1979</u>
	\$606.00	\$303.00	\$ -0-
Interest:	$\frac{+424.20}{\$1,030.20}$	$\frac{+190.89}{\$493.89}$	$\frac{-0-}{\$ -0-}$
Total:			

Wright v. Woods

Average Retroactive Benefits For:	<u>1977</u>	<u>1978</u>	<u>1979</u>
	\$ 0	\$362.64	\$164.00
Interest:	\$ -0-	+228.46	+ 91.84
Total:	\$ 0	\$591.10	\$255.84

- (b) The CWD shall add the amount of the actual retroactive benefit for each calendar year for each court case as determined in .536(f), .636(f), .725(e) or .827(a)(7) above to the amount of the interest determined in .923 above for that calendar year and that court case.

Example:

North Coast Coalition v. Woods

Actual Retroactive Benefits For:	<u>1977</u>	<u>1978</u>	<u>1979</u>
	\$ -0-	\$450.00	\$250.00
Interest:	+ -0-	+283.50	+140.00
Total:	\$ -0-	\$733.50	\$390.00

- (c) The CWD shall add to the amounts determined in .924(a) above to the amounts determined in .924(b) above to determine the claimant's total retroactive payment for calendar year under each court case.

Example:

North Coast Coalition v. Woods

Retroactive Benefits For:	<u>1977</u>	<u>1978</u>	<u>1979</u>
Amount determined in .924(a):	\$1,030.20	\$493.89	\$ -0-
Amount determined in .924(b):	+ -0-	+733.50	+390.00
Total Retroactive Benefits:	\$1,030.20	\$1,227.39	\$390.00

Wright v. Woods

Retroactive Benefits For:	<u>1977</u>	<u>1978</u>	<u>1979</u>
Amount determined in .924(a):	\$ -0-	\$591.10	\$255.84
Amount determined in .924(b):	+ -0-	-0-	-0-
Total Retroactive Benefits:	\$ 0	\$591.10	\$255.84

- (d) The CWD shall add together the amounts for each calendar year determined in .924(c) above under each court case to arrive at the claimant's total retroactive payment.

Example:

North Coast Coalition v. Woods

1977	\$ 1,030.20
1978	\$ 1,227.39
1979	\$ 390.00
Total Retroactive Payment:	\$ 2,647.59

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HANDBOOK

Example:

<u>North Coast Coalition v. Woods</u>	\$2,648.00
<u>Wright v. Woods</u>	\$ 847.00
Amount of Warrant	\$3,495.00

.931 For Angus v. Woods claimants who have had the amount of their retroactive benefits processed together with the claim from the other spouse, no longer living in the home, in accordance with .823(c) above, the CWD shall award one-half of the retroactive payment determined in .924(ac) to each spouse, with an NOA informing each claimant of the method of computation and that one-half of the payment has been issued to the other spouse who also claimed benefits for those same month(s) and year(s).

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- (a) For claimants who are eligible for payments (excluding those claimants in Angus v. Woods subject to .931 above) the CWD may issue a single warrant combining the claimant's retroactive payments for all court cases, provided that the claimant receives individual NOAs informing him/her of the payment computation for each court case.
- .933 The retroactive payment in .924(d) above, shall be used to offset any collectable outstanding overpayment (See MPP Section 44-351.3) which was discovered on or after January 1, 1981. Any amount in excess of the overpayment shall be paid to the claimant.
- .934 The retroactive payment received by a current AFDC recipient shall not be considered income or property for AFDC purposes in the month of receipt or in the following month (See MPP Section 42-213.2(h)).
- .935 Prior to or concurrent with the issuance of the retroactive payment, the CWD shall issue the appropriate NOA(s) explaining to the claimant:
- (a) How the retroactive payment was computed;
 - (b) The provision specified in .934 above; and
 - (c) His/her right to request a state hearing.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Section 10553; Order of the Mendocino County Superior Court dated November 7, 1984, in the case of North Coast Coalition vs. Woods (No. 41801); Order of the San Mateo County Superior Court dated March 1, 1985 in the case of Wood vs. Woods (No. 240331); Order of the San Mateo County Superior Court dated March 1, 1985 in the case of Wright vs. Woods (no. 214580); Order of the United States District Court for the Northern District of California dated July 12,

1985 in the case of Angus vs. Woods (No.
C-78-2000RHS).

Appendix A

Maximum Aid Payment (MAP) Levels: July 1, 1976 through December 31, 1981

Periods	7/1/76	1/1/77	7/1/77	7/1/79	7/1/80	1/1/81	7/1/81
	to	to	to	to	to	to	to
AU Size	12/31/76	6/30/77	6/30/79	6/30/80	12/31/80	6/30/81	12/31/81
1	157	166	175	201	232	227	248
2	258	273	287	331	382	374	408
3	319	338	356	410	473	463	506
4	379	402	423	487	563	550	601
5	433	459	483	556	642	628	686
6	487	516	543	625	722	706	771
7	534	566	596	686	792	775	846
8	581	616	649	747	862	844	922
9	628	666	701	807	932	912	996
10 or more	675	716	754	868	1002	981	1071

Appendix B

Minimum Basic Standard of Adequate Care (MBSAC) Levels: July 1, 1976 through December 31, 1981

Periods	7/1/76	1/1/77	7/1/77	7/1/79	7/1/80	1/1/81	7/1/81
	to	to	to	to	to	to	to
AU Size	12/31/76	6/30/77	6/30/79	6/30/80	12/31/80	6/30/81	12/31/81
1	168	168	177	204	235	231	248
2	282	282	297	342	393	386	408
3	343	343	361	416	480	470	506
4	422	422	444	511	591	577	601
5	487	487	513	590	682	667	686
6	549	549	578	665	768	751	771
7	604	604	636	732	845	827	846
8	667	667	702	808	933	913	922
9	730	730	769	885	1022	1000	1000
10	794	794	836	962	1111	1087	1087
*	7	7	7	8	9	9	9

*Each additional person.

FACE SHEET
(OAL-4)

(See Instructions on Reverse)

5012182

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

Dec 10 2 18 PM '85

ADMINISTRATIVE LAW
ENDORSED
APPROVED FOR FILING

JAN 16 1986

Office of Administrative Law
LEAVE BLANK

1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

DEPARTMENT OF SOCIAL SERVICES

(AGENCY)

BY:

(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

FILED
In the office of the Secretary of State
of the State of California

JAN 16 1986
At 4:31 o'clock P.M.
MARCH FONG EU, Secretary of State
By Margaret Hershberger
Deputy Secretary of State

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION Dan Fleek, Regulations Analyst TELEPHONE 445-0313

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

SECTIONS AMENDED

Title: 45-201.43

SECTIONS ADOPTED

SECTIONS REPEALED

3. TYPE OF ORDER (CHECK ONE)

☒ Regular

☐ Emergency
(Attach Finding of Emergency)

☐ Certificate of Compliance

Other Regulatory Actions:

☐ Procedural and Organizational
Change

☐ Editorial Correction

☐ Authority and Reference
Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

☒ No

☐ Yes, if yes give date of previous filing _____

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

☒ No

☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES,
CHECK THE APPROPRIATE BOX OR BOXES.

☐ State Fire Marshal
(Attach Approval)

☐ Building Standards Comm.
(Attach Approval)

☐ Fair Political Practices Comm.
(Include FPPC Approval Stamp)

☐ Department of Finance
(Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

8/2/85

b. DATE OF ADOPTION OF REGULATION(S)

12/17/85

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

N/A

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

☒ No

☐ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS
ON REVERSE)

a. ☒ Effective 30th day after filing with the Secretary of State.

b. ☐ Effective on _____ as required by statutes: (list) _____

c. ☐ Effective on _____ (Designate effective date **earlier than** 30 days after filing with the Secretary
of State pursuant to Government Code Section 11346.2(d).)

☐ Request Attached

d. ☐ Effective on _____ (Designate effective date **later than** 30 days after filing with the Secretary of
State.)

INSTRUCTIONS FOR STD 400
(OAL-4)

A completed Face Sheet for Filing Regulations With the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer authorized to submit regulations.

Part 1. Provide agency name and signature of the agency officer. Also provide the name and telephone number of the person who can answer questions regarding this regulatory filing.

Part 2. Provide the Administrative Code Title in which the regulation will appear and list each section number to be amended, adopted, or repealed.

(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

Part 4. Check appropriate box.

Part 5. Regulatory activity resulting from the agency's review of existing regulations should be submitted in a separate filing. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 6. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

- a. Fire and panic safety regulations (Gov. Code Sec. 11342.3).
- b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346.5(a) (6), 11349.1 and S.A.M. Sections 6050-6057.

Part 7. a. Provide the publication date of the Notice Register in which the initial notice regarding these regulations appeared.

b. Provide the date on which the regulatory agency adopted the regulation(s).

c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

Filing Requirements

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required.
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

Amend Section 45-201.43 to read:

45-201 GENERAL AFDC-FC REQUIREMENTS (Continued)

45-201

•4 (Continued)

- 43 Except for a child living with his or her nonrelated legal guardian, permanency planning hearings shall be conducted on behalf of the child within 18 months of the date of placement into foster care and shall occur no less frequently than once every 18 months following the first hearing throughout the period of foster care placement.

(a) Subsequent permanency planning hearings shall not be required for a child who is free for adoption and placed in the adoptive home identified in the previous permanency planning hearing pending finalization of the adoption.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Section 366.25(i).

FACE SHEET

(OAL-4)

(See Instructions on Reverse)

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

ORD #0485-23

85 1231 6

RECEIVED

Dec 31 11 06 AM '85

OFFICE OF
ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING

JAN 16 1986

Office of Administrative Law

1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

Department of Social Services
(AGENCY)

BY: Linda S. McNeel
(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

FILED
In the office of the Secretary of State
of the State of California

JAN 16 1986
At 4:31 o'clock P.M.
MARCH FONG EU, Secretary of State
By Margaret Hershberger
Deputy Secretary of State

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION Diane Moritz Glazer, Regulations Analyst TELEPHONE 445-0313

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

Title: _____
SECTIONS AMENDED
MPP 44-350.2
SECTIONS ADOPTED
MPP 44-350.131
SECTIONS REPEALED

3. TYPE OF ORDER (CHECK ONE)

- ☐ Regular ☐ Emergency (Attach Finding of Emergency) ☒ Certificate of Compliance
Other Regulatory Actions:
☐ Procedural and Organizational Change ☐ Editorial Correction ☐ Authority and Reference Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

☒ No ☐ Yes, if yes give date of previous filing _____

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

☒ No ☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES, CHECK THE APPROPRIATE BOX OR BOXES.

- ☐ State Fire Marshal (Attach Approval) ☐ Building Standards Comm. (Attach Approval) ☐ Fair Political Practices Comm. (Include FPPC Approval Stamp) ☐ Department of Finance (Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

November 1, 1985

b. DATE OF ADOPTION OF REGULATION(S)

August 29, 1985
December 30, 1985

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

Not Applicable

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

☐ No ☒ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS ON REVERSE)

- a. ☐ Effective 30th day after filing with the Secretary of State.
b. ☐ Effective on _____ as required by statutes: (list) _____
c. ☐ Effective on _____ (Designate effective date **earlier than** 30 days after filing with the Secretary of State pursuant to Government Code Section 11346.2(d).)
☐ Request Attached
d. ☐ Effective on _____ (Designate effective date **later than** 30 days after filing with the Secretary of State.)

INSTRUCTIONS FOR STD 400
(OAL-4)

A completed Face Sheet for Filing Regulations With the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer authorized to submit regulations.

Part 1. Provide agency name and signature of the agency officer. Also provide the name and telephone number of the person who can answer questions regarding this regulatory filing.

Part 2. Provide the Administrative Code Title in which the regulation will appear and list each section number to be amended, adopted, or repealed.
(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

Part 4. Check appropriate box.

Part 5. Regulatory activity resulting from the agency's review of existing regulations should be submitted in a separate filing. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 6. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

- a. Fire and panic safety regulations (Gov. Code Sec. 11342.3).
- b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346.5(a) (6), 11349.1 and S.A.M. Sections 6050-6057.

Part 7. a. Provide the publication date of the Notice Register in which the initial notice regarding these regulations appeared.

b. Provide the date on which the regulatory agency adopted the regulation(s).

c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

Filing Requirements

The following material must be submitted when filing regulations with OAL:

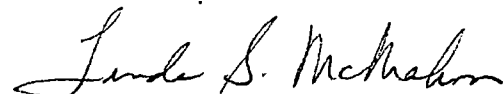
- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required.
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

CERTIFICATE OF COMPLIANCE - Section 11346.1(e), Government Code

The Department of Social Services hereby certifies that it has complied with the provisions of Sections 11346.4 through 11346.8 inclusive of the Government Code, within 120 days of the effective date of the following emergency regulations which were filed with the Secretary of State on September 5, 1985, and which became effective on September 5, 1985.

Sections Amended: 44-350.2; Adopted: 44-350.131.

No Amendments or repealers resulted from the public hearing held on December 16, 1985.



LINDA S. McMAHON
Director

December 30, 1985

Date

Adopt MPP Section 44-350.131 to read:

44-350 OVERPAYMENTS - GENERAL (Continued)

44-350

•1 General (Continued)

- 13 An overpayment is that amount of aid payment an assistance unit has received to which it is not eligible. An overpayment may be all or a portion of an aid payment. This includes aid paid pending a state hearing. (See •4 below.)

•131 An overpayment shall not include aid paid where all four of the following prerequisites are met:

(a) An applicant or recipient fails to perform an act constituting a condition of eligibility for aid. Acts which constitute conditions of eligibility shall include, but are not limited to those contained in Sections 40-105.21, 42-625, 43-106, 43-119.23, 44-103.23, and •24.

(b) The applicant's/recipient's failure to perform an act constituting a condition of eligibility is caused by a state agency error or by a county welfare department (CWD) error, and not by an applicant/recipient error.

(1) "State agency error," for purposes of this section is the agency's failure to promptly notify the CWD that the applicant/recipient does not or no longer meets a specific condition of eligibility.

(A) For example: EDD fails to notify the CWD that an applicant/recipient has been deregistered from Job Services (JS).

(2) "CWD error," for purposes of this section, is the CWD's failure to inform an applicant/recipient that he/she must perform an act which

constitutes a condition of eligibility.

(3) "Applicant or recipient error," for purposes of this section, shall occur only when the case record specifically documents that the applicant or recipient was notified, either verbally or in writing, of the need to perform the act which constitutes a condition of eligibility and did not perform the act in question after notification, within a reasonable period of time under the circumstances.

(A) For example, where a child becomes six years old on April 6 and the CWD informs the parent of the requirement to WIN register on July 12, the parent's failure to WIN register in July would probably be a "recipient error" and, therefore, cause an overpayment for July. However, if the parent is informed of the WIN registration requirement on July 29, a failure to register within that month would probably not be a "recipient error" and there would be no overpayment for July because the recipient did not have a reasonable period of time to WIN register before the end of the month. In either case, there is no overpayment for April, May and June.

(c) The amount of aid paid would have been the same had the act constituting the condition of eligibility been performed.

(d) The state agency or CWD error is discovered or an overpayment is being calculated or an overpayment is being recouped on or after January 1, 1985.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Section 110040), Statutes of 1984, Chapter 1441, Section 1.

Amend MPP Section 44-350.2 to read:

44-350 OVERPAYMENTS - GENERAL (Continued)

44-350

•2 Definitions (in Alphabetical Order) (Continued)

- (b) Administrative Error Overpayment - except as provided in Section 44-350.131, an overpayment caused by error on the part of the county when all information necessary to a correct determination of the grant was in the possession of the county. Administrative error also includes but is not limited to county failure to advise applicant/recipients of social security number and WIN/Demo or JS registration requirements, and EOB failure to notify the county when WIN/JS registration requirements are not met.

Authority: welfare and Institutions Code Sections 10553 and 10554.

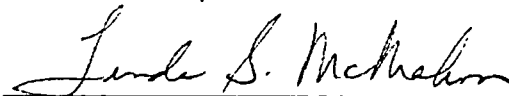
Reference: welfare and Institutions Code Section 11004(d), Statutes of 1984, Chapter 1441, Section 1.

CERTIFICATE OF COMPLIANCE - Section 11346.1(e), Government Code

The Department of Social Services hereby certifies that it has complied with the provisions of Sections 11346.4 through 11346.8 inclusive of the Government Code, within 120 days of the effective date of the following emergency regulations which were filed with the Secretary of State on September 5, 1985, and which became effective on September 5, 1985.

Sections Amended: 44-350.2; Adopted: 44-350.131.

No Amendments or repealers resulted from the public hearing held on December 16, 1985.



LINDA S. McMAHON
Director

December 30, 1985
Date

FACE SHEET

(OAL-4)

(See Instructions on Reverse)

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

ORD # 0985-47

8601142

FILED
In the office of the Secretary of State
of the State of California

JAN 21 1986

At 4:22 o'clock P.M.

MARCH FONG EU, Secretary of State

By Marjorie Hershberger
Deputy Secretary of State

LEAVE BLANK

ENDORSED
APPROVED FOR FILING

JAN 21 1986

Office of Administrative Law

1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

State Department of Social Services

(AGENCY)

BY: Linda S. McWhorter
(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

AGENCY CONTACT PERSON AND POSITION

Diane Moritz Glazer, Regulations Analyst

TELEPHONE

322-3752

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

Title: SECTIONS AMENDED MPP 26-020; 40-195.215, .224; 41-440.15, .21, .22, .24, .25, .26, .42, .43;
41-441.11, .12, .2, .3, .4; 41-442.12; 42-625; 42-655.1; 44-101.525; 44-103.116, .117;
SECTIONS ADOPTED
MPP Chapter 42-700, Sections 42-710 through 42-787, non seq.
SECTIONS REPEALED

3. TYPE OF ORDER (CHECK ONE)

- ☐ Regular ☒ Emergency (Attach Finding of Emergency) ☐ Certificate of Compliance
- Other Regulatory Actions:
- ☐ Procedural and Organizational Change ☐ Editorial Correction ☐ Authority and Reference Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

☒ No ☐ Yes, if yes give date of previous filing _____

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

☒ No ☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES, CHECK THE APPROPRIATE BOX OR BOXES.

- ☐ State Fire Marshal (Attach Approval) ☐ Building Standards Comm. (Attach Approval) ☐ Fair Political Practices Comm. (Include FPPC Approval Stamp) ☒ Department of Finance (Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

Not Applicable

b. DATE OF ADOPTION OF REGULATION(S)

January 14, 1986

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

Not Applicable

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

☐ No ☒ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS ON REVERSE)

- a. ☐ Effective 30th day after filing with the Secretary of State.
- b. ☒ Effective on January 23, 1986 as required by statutes: (list) Sec. 13, Chapter 1025, Stats. 1985
- c. ☐ Effective on _____ (Designate effective date **earlier than** 30 days after filing with the Secretary of State pursuant to Government Code Section 11346.2(d).)
- ☐ Request Attached
- d. ☐ Effective on _____ (Designate effective date **later than** 30 days after filing with the Secretary of State.)

INSTRUCTIONS FOR STD 400
(OAL-4)

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- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

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b. Provide the date on which the regulatory agency adopted the regulation(s).

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- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

Sections Amended (continued)

44-103.242; 44-111.3(f); 44-206.1(d), (g), (m), .23; 44-301; 44-303.33; 44-310;
44-350.14

Amend MPP Section 26-020 to read:

26-020 REPORTING REQUIREMENTS

26-020

Required reports are of the following types:

Caseload/Caseload Movement and Expenditures Reports

Case-specific Foster Care Information System Reports

Child Support Activities Report

Processing Applications Report

Reasons for Denials and Other Nonapprovals of Applications Report

Reasons for Discontinuance Reports

Recipient Fraud Report

Recipient Characteristics Surveys

WIN/SAU Reports

Administration and Operations Reports

Reports of Staff Development, Training and Educational Leave of Absence

Recipient and Staff Ethnic Origin and Language Skills Reports

Education Consolidation and Improvement Act of 1981 Reports

Reports required by court order

Recipients of Social Services and Costs Reports

Adoption Program Reports

Licensing Reports

Greater Avenues for Independence (GAIN) Reports

Authority: Welfare and Institutions Code Sections 10553,
10554, and 10604(b).

Reference: Welfare and Institutions Code Sections 10553 and
11320.2.

Amend MPP Sections 40-195.215 and .224:

40-195 TRANSFER PROCEDURE (Continued)

40-195

.2 Steps Required to Accomplish Transfer (Continued)

.21 The First County Shall:

.215 If the recipient is registered for WIN Demo in accordance with Section 42-625, the CWD shall send a copy of the Registration and Report form and, when appropriate, copies of relevant documents from the GAIN case folder to the second county.

40-195 TRANSFER PROCEDURE (Continued)

40-195

.2 Steps Required to Accomplish Transfer (Continued)

.22 The Second County Shall: (Continued)

.221 Determine that the recipient is making his/her home in that county.

.224 Review WIN Demo Determine participation requirements and refer or defer the WIN Demo registrant in accordance with follow procedures in Section 42-660 or Sections 42-760 and 42-761 as appropriate.

Authority: welfare and Institutions Code Sections 10553, 10554, and 10604(b).

Reference: Welfare and Institutions Code Sections 10553 and 11320.2(a).

Amend MPP Section 41-440.15:

41-440 UNEMPLOYMENT OF A PARENT OR PARENTS

41-440

.1 Definition (Continued)

.15 The following are definitions of words as used in this section (in alphabetical order).

- (a) AFDC-U Parent -- The parent who establishes a deprivation on the basis of unemployment. The parent can be included or excluded from the FBU.
- (b) Cause Determination -- A determination made that an AFDC-U parent either did or did not have a good reason for failure or refusal to meet program requirements.
- (c) EDD-JS -- Employment Development Department, Job Services section. That section of EDD which registers the non-WIN AFDC-U parent for employment or employment-related remote principal earner and the state only principal earner for employment services.
- (d) Exempt AFDC-U Parent - The AFDC-U parent who is not required to register in accordance with Section 42-625 with either WIN or EDD-JS for employment or employment-related services pursuant to Section 41-440.24.
- (e) GAIN AFDC-U Principal Earner -- The principal earner residing in a GAIN county who is required to register for GAIN as a condition of eligibility.
- (ef) IMU -- Income Maintenance Unit. That unit within the county welfare department which makes eligibility and grant determinations.
- (fg) Nonexempt AFDC-U Parent - The AFDC-U parent who is required to register in accordance with Section 42-625 for WIN or with EDD-JS pursuant to Section 41-440.24.
- (gn) Non-WIN/Non-GAIN Principal Earner --

- (1) The federally eligible AFDC-U parent exempt from WIN Demo or GAIN registration due to remoteness.
- (2) The state-only nonfederally eligible AFDC-U parent.
- (H1) WIN AFDC-U Parent -- The AFDC-U parent residing in a WIN county who is required to register for WIN Demo as a condition of eligibility.

See Sections 42-600.3 and 42-710.3 for additional definitions applicable to the WIN Demo employment programs.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 10604(b).

Reference: Welfare and Institutions Code Sections 10553 and 11320.1.

Amend MPP Sections 41-440.21 and .22 to read:

41-440 UNEMPLOYMENT OF A PARENT OR PARENTS (Continued) 41-440

.2 Requirements to be Met in Order to Establish Deprivation Due to Unemployment (Continued)

Note: Section 41-440.21 and .22 provisions do not apply to refusals, quits or terminations of state seasonal employment made available under the "AB 1531 Demonstration Project". See Section 42-710.

In order to establish deprivation due to unemployment, the AFDC-U parent in a home in which both parents are living, shall meet the following requirements:

- .21 Both the WIN and non-WIN The AFDC-U parent applicant shall not have quit, without good cause, a job or employment related training within the 30 days immediately prior to the beginning date of aid.
- .22 Both the WIN and non-WIN The AFDC-U parent applicant shall not have refused, without good cause, a bona fide offer of employment or employment related training within the 30 days immediately prior to the beginning date of aid.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 10604(b).

Reference: Welfare and Institutions Code Sections 10553 and 11320.7.

Amend MPP Sections 41-440.24, .25, and .26 to read:

41-440 UNEMPLOYMENT OF A PARENT OR PARENTS (Continued) 41-440

.2 Requirements to be Met in Order to Establish Deprivation Due to Unemployment (Continued)

.24 The federally eligible principal earner shall be work registered ~~unless exempt under Sections 42-633, 634, 635, 637, 638 and 640~~ in accordance with Section 42-625. The ~~nonfederally eligible state-only~~ principal earner shall be registered with EDD-JS unless exempt under Sections 42-633, 634, and 635.

.241 The principal earner, whether included or excluded from a federally eligible assistance unit, shall be registered with WIN Demo ~~unless exempt under Section 42-630~~. See Section 42-650 for ~~procedures~~ in accordance with Section 42-625.

.25 The nonexempt federally eligible principal earner shall meet the participation requirements of the WIN Demo Program Chapter 42-600 or 42-700 as appropriate.

.26 The ~~Non-WIN~~ remote or state-only principal earner shall:

.261 Accept a bona fide offer of employment.

.262 Continue existing employment.

.263 Participate in employment related training approved or provided by EDD.

.264 Appear for interviews with an employer arranged by EDD-JS.

.265 Report to EDD-JS when called in by EDD-JS.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 10604(b).

Reference: welfare and Institutions Code Sections 10553, 11320.1, and 11310.

Amend MPP Sections 41-440.42 and .43 to read:

41-440 UNEMPLOYMENT OF A PARENT OR PARENTS (Continued) 41-440

.4 Conditions to be Met for Federal Participation in Payments to AFDC-U Families (Continued)

.42 The principal earner shall be registered ~~for WIN or with E99-35~~ unless exempt pursuant to Section 41-440.24 in accordance with Section 42-625.

.43 The principal earner, including those being considered for transfer from Refugee Cash Assistance or Entrant Cash Assistance to AFDC-U, shall have established a connection with the labor force:

.431 By meeting the requirements of a., b., or c. below in six calendar quarters within any 13-calendar-quarter period which ends within one year before the date of application; see 41-440.433 below:

a. Earned a gross of at least \$50 during the quarter; or

b. Participated during the quarter in any activity administered under any of the following:

(1) The Work Incentive Program (WIN)

(2) The Work Incentive Demonstration Program (WIN Demo)

(3) The Community Work Experience Program (CWEP); or

(4) The GAIN Program; or

c. A combination of a. and b.

Authority: welfare and Institutions Code Sections 10553, 10554, and 10604(b).

Reference: Welfare and Institutions Code Sections 10553, 11320.1,
and 11310.

Amend Sections 41-441.11 and .12 to read:

41-441 PROCEDURES FOR REFERRAL TO AND COMMUNICATIONS WITH EDD-JS 41-441

.1 Referrals to EDD-JS

- .11 All principal earners not required to register for WIA Demo The remote principal earner and the nonexempt state-only principal earner shall register for EDD-JS as a condition of eligibility, unless exempt from WIA Demo under Section 42-630.3, 4, 5, 7, 8, or 10. (See Section 41-440.24.) The procedures and provisions in Sections 41-441 and 41-442 are not applicable to the exempt principal earners.

- .12 The non-WIA principal earner is referred using a referral form.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 10604(b).

Reference: Welfare and Institutions Code Sections 10553, 11320.1, and 11310.

Amend MPP Sections 41-441.2 and .3 to read:

41-441 PROCEDURES FOR REFERRAL TO AND COMMUNICATIONS WITH EDD-JS 41-441
(Continued)

.2 Communications From EDD-JS (Continued)

.21 EDD-JS will notify the county welfare department when the non-WIN principal earner:

.211 Refuses an offer of employment;

.212 Fails to appear for an interview with an employer;

.213 Fails or refuses to respond to EDD call-in;

.214 Refuses a referral to an interview with an employer;

.215 Fails to maintain current registration.

.3 County Welfare Department Actions on Communications Regarding
Non-WIN EDD-JS Registered Principal Earners

Note: Section 41-441.3 (et seq.) provisions do not apply to refusals, quits or terminations of state seasonal employment made available under the "AB 1531 Demonstration Project". See Section 42-710.

.31 Refusal of an offer of employment:

When the CWD is notified that the individual has refused an offer of employment, the IMU must make a cause determination as outlined in Section 41-442.11. If the refusal was without good cause, the penalties in Section 41-442.2 will apply.

.32 Failure to maintain current registration:

.321 The non-WIN principal earner is required to maintain current registration through regular contacts as required by EDD-JS. This contact period required by EDD-JS varies from one contact every 30 days to not less than one contact every 90 days depending on local employment conditions. In no event will the principal earner be required to report more or less frequently than is required by EDD-JS standards for all EDD-JS registrants in that local community.

- .322 The requirement of the non-WIA principal earner to maintain current registration is an absolute requirement. A good cause determination is not made.
- .323 Eligibility is reestablished when the non-WIA principal earner reregisters.
- .33 When a principal earner fails to appear for an interview with an employer, fails or refuses to respond to EDD-JS call-in, or refuses a referral to an interview with an employer, EDD will notify the county welfare department.

The IMU must determine whether the non-WIA principal earner had good cause for the refusal or failure to appear using the criteria under Section 41-442.13.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 10604(b).

Reference: Welfare and Institutions Code Sections 10553, 11320.1, and 11310.

Amend MPP Section 41-442.12 to read:

41-442 CAUSE DETERMINATIONS AND PENALTIES

41-442

.1 Cause Determinations (Continued)

- .12 For the WIN Demo or GAIN principal earner all cause determinations shall be made in accordance with Section 42-688 or Section 42-781 as appropriate.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 10604(b).

Reference: Welfare and Institutions Code Sections 10553 and 11320.7.

Amend MPP Section 42-625 to read:

42-625 WIN DEMO REGISTRATION AS A CONDITION OF AFDC ELIGIBILITY 42-625

- .1 All AFDC applicants and recipients are required to register for WIN Demo unless they are exempt. Essential persons are required to register for WIN Demo as a condition for inclusion in the assistance unit. Principal earners who are excluded from the assistance unit are required to register for WIN Demo to establish federal eligibility for the assistance unit to which they are related (see Section 42-660.3 for deferral criteria).
- .11 When the assistance unit will not be federally eligible on the beginning date of aid solely because the principal earner has not been unemployed for 30 days, the principal earner shall be registered for WIN Demo.
- .2 An individual in the AFDC assistance unit shall be exempt from WIN Demo when he/she meets any of the criteria specified in 42-631 through 42-641.
 - .21 The principal earner who is exempt from WIN registration due to remoteness shall register with EDD-JS. If the principal earner is exempt from WIN registration due to reasons other than remoteness, he/she is not required to register with WIN Demo or EDD-JS.
 - .22 The principal earner who is under 16 or is a 16-through 18-year-old full-time student is not exempt under Section 42-631 or 42-632.
- .3 AFDC applicants and recipients who are exempt from registration shall have the option to register with WIN Demo on a voluntary basis.
- .4 Applicants for AFDC who are granted aid under the Refugee Demonstration Project in lieu of AFDC, pursuant to MPP Section 40-125.6, shall have the same registration requirements as other applicants for AFDC. Such individuals shall remain registered upon transfer to the AFDC program.
- .5 Registered AFDC recipients who are transferred to the Refugee Demonstration Project pursuant to MPP Section 40-125.3 shall remain registered while receiving aid under the Refugee Demonstration Project and shall remain registered upon transfer to the AFDC program.

•6 The above provisions apply to AFDC applicants and recipients
residing in a GAIN county.

Authority: welfare and Institutions Code Sections 10553,
10554, and 10604(b).

Reference: welfare and Institutions Code Sections 10553,
11320.1, and 11310.

Amend MPP Section 42-655.1 to read:

42-655 PENALTIES FOR REFUSAL OR FAILURE TO REGISTER (Continued) 42-655

- 1 Refusal or failure of a nonexempt principal earner to register in accordance with Section 42-625 for WIA results in the denial or discontinuance of AFDC benefits to the family.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 10604(b).

Reference: Welfare and Institutions Code Sections 10553 and 11320.5(a).

Adopt MPP Chapter 42-700 and MPP Section 42-710 to read:

Chapter 42-700 GREATER AVENUES FOR INDEPENDENCE

42-710 INTRODUCTION TO GAIN

42-710

•1 Background

AB 2580, Chapter 1025, Statutes of 1985, established the Greater Avenues for Independence (GAIN) Act of 1985. GAIN is a comprehensive statewide employment program for AFDC applicants and recipients which greatly expands the services available under the existing work Incentive Demonstration (WIN Demo) Program.

In accordance with the intent of the Legislature, it is the duty of the state and the counties to recognize that:

- (a) Applicants for, and recipients of, aid under this chapter desire to work, and will do so if provided with the opportunity.
- (b) The state and counties shall provide applicants for, and recipients of, aid under this chapter with the opportunity to obtain employment by offering a full range of employment training and supportive services, consistent with the needs of participants, that allow for informed choices in order to meet their employment goals.
- (c) Able-bodied applicants for, and recipients of, aid under this chapter, are expected to work. The time frames for fulfilling this expectation shall be set forth in an explicit contract between an applicant or recipient and the county.
- (d) Applicants for, and recipients of, aid under this chapter who are required to register for employment and training programs pursuant to Section 11310 are "individuals in special need" of training as described in Section 2 of the federal Job Training Partnership Act (29 U.S.C. Sec. 1501, et seq.), "individuals who require special assistance" provided in Section 123 of that act, and "most in need" of employment and training opportunities as described in Section 141 of that act. The Legislature finds and declares that these individuals are in the labor force actively seeking employment.

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- (e) Because success of any program will depend on the state, it must exercise leadership to engender enthusiasm among counties, county welfare department directors, and county welfare department line staff, who are the principal contacts for many recipients enrolled in the program.
- (f) A successful program should also be based upon all the following principles:
 - (1) Recipients should be able to make choices and to live up to the responsibilities involved in those choices.
 - (2) Participants should have an early opportunity to obtain a job.
 - (3) Expenditures should be targeted where they can do the most good.
 - (4) The state and the counties have a responsibility to provide a sufficient level of services to meet the needs of participants, as well as to undertake sufficient public information efforts to make recipients, potential participants, employers, or other public or private entities aware of the components, opportunities, and benefits of this program.
 - (5) New programs should be good investments of public funds. Added costs to the system should be incurred only when they are likely to result in long-term personal and community payoff.
- (g) Clients should not be placed in any unassigned pool while waiting for a scarce resource.
- (h) Most types of employment and training program components for applicants for, and recipients of, aid under this chapter have been successfully tried in this state.
- (i) Aid under this chapter is available to persons who meet eligibility requirements. This program provided for in this article should not hamper continuation of this state's existing system of fraud detection, one of the most successful in the nation.

Accordingly, it is the duty of every involved county welfare department (CWD) employee to take all reasonable actions to promote the goals and objectives of the GAIN program and to

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provide appropriate and vigorous assistance to GAIN participants so that all those on public assistance may obtain unsubsidized employment.

2 Major Program Requirements

The major program requirements for the CWD administered GAIN program are as follows:

- .21 Each CWD designs a county plan which includes the types of services offered, the agencies involved in providing these services, and a projected program budget. The county plan will include provisions for child care and other supportive services.
- .22 Plans must be approved by the county Board of Supervisors after a public hearing.
- .23 The CWD submits its initial plan for State Department of Social Services' (SDSS) approval by September 25, 1987.
- .24 GAIN will be fully operational in all counties by September 25, 1988.
- .25 GAIN regulations become effective in a county on the implementation date of its approved plan. Until that date in WIN Demo counties, WIN Demo regulations remain in effect (Section 42-600). In addition, in WIN Demo counties, WIN Demo regulations apply to individuals who have not been phased into GAIN.
- .26 When the county becomes a GAIN county, the current recipient caseload can be phased in over a two-year period.
- .27 Participants are required to participate in a structured sequence of employment-related activities according to a contract between the CWD and the participant.
- .28 Participants who fail to participate without good cause for the first instance, and who do not successfully conciliate, will be placed on money management for a period of up to three months. If the participant continues to refuse to participate, he/she is subject to financial sanctions.

3 Definitions Used in This Chapter

- (a) "Basic Contract" means a written contract between the participant and the CWD which includes rights and

responsibilities, description of the program and available services including child care, consequences for failure to participate and initial participation requirements.

- (b) "Cause Determination" means a decision by CWD staff as to whether a participant had an acceptable reason for refusal or failure to cooperate with GAIN requirements.
- (c) "Child Care Resources and Referral Agency" means an agency which contracts with the State Department of Education to provide information to parents about available child care and to coordinate community resources for the benefit of parents and local child care providers.
- (d) "Component" means any work, training, or job search activity associated with GAIN, including signing the basic contract.
- (e) "Conciliation" means a process through which a recipient who has failed or refused to cooperate, without good cause, is given an additional opportunity to cooperate with GAIN requirements. The CWD must make every reasonable effort to resolve disputes between CWD staff and the participant who is failing or refusing to cooperate with the program without good cause before money management or financial sanctions can be imposed.
- (f) "Cost Effective" means provision of the most appropriate service at the most responsible cost, not necessarily the least costly.
- (g) "CWD" means the county welfare department.
- (h) "Deferred Registrant" means a registrant who is not required to participate in accordance with GAIN deferral criteria.
- (i) "Exempt" means that an AFDC applicant or recipient is not required to register for GAIN as a condition of eligibility.
- (j) "Financial Sanctions" means the discontinuance of aid for a recipient, and sometimes the entire assistance unit, when the recipient fails or refuses to cooperate without good cause.

- (k) "Fixed-Unit Price" means a set fee or price for a single component or group of services that achieve a specific goal.
- (l) "Formal Conciliation" means a process to meet the conditions of a conciliation plan which occurs during the 30-day period immediately following unsuccessful informal conciliation.
- (m) "Formal Grievance Procedures" mean procedures established by the Unemployment Insurance Code or procedures established by the County Board of Supervisors which allow the participant to appeal any program requirement or assignment which he or she believes is in violation of the contract or inconsistent with the program.
- (n) "GAIN" means Greater Avenues for Independence.
- (o) "GAIN Allocation Plan" means the SOSS plan which includes policies and parameters for allocating funds to the CWDs to administer the GAIN program.
- (p) "Grant Diversion" means public or private sector employment or on-the-job training in which the participant's cash grant, or a portion thereof, is diverted to the employer as a wage subsidy.
- (q) "Informal Conciliation" means a participant interview with involved parties to redetermine if good cause exists for the failure or refusal to meet requirements and to attempt to resolve the conflict.
- (r) "Independent Assessment" means an evaluation by an impartial third party to develop a binding employment plan when the participant and the assessor are unable to reach an agreement on developing an employment plan.
- (s) "Intermediary Service Provider" means a public or private agency with a CWD contract that subcontracts with employers to provide training or employment to participants.
- (t) "Job Training" means vocational training in employer specific skills in a classroom or onsite setting, including but not limited to training provided by local private industry councils (PIC), community based organizations, or special programs offered by community colleges.

- (u) "Money Management" means vendor or substitute payments for up to three months for a participant who has failed or refused to participate or respond to informal and formal conciliation.
- (v) "On-the-Job-Training (OJT)" means employment in which a participant receives job skills training from an employer. At the end of the training, it is expected that the participant will be retained by the employer.
- (w) "Participant" means a mandatory or voluntary registrant who is actively participating in GAIN.
- (x) "Participant Contract" means a contract between the participant and the CWD which contains the agreed upon program requirements and supportive services. This refers to the basic contract and its amendments.
- (y) "Performance-based Contract" means training or education under a contract in which payment is made to the contractor only after the achievement of a specified goal.
- (z) "Preemployment Preparation (PREP)" means a nonsalaried work experience assignment with a public or private nonprofit agency that provides the participant with either (1) basic work behavior skills or (2) advanced on-the-job enhancement of existing skills. The assignment can be short term which is no longer than three months or long term which does not exceed one year.
- (aa) "Private Industry Council (PIC)" means an entity established for a service delivery area which provides policy guidance and oversees activities provided under the Job Training Partnership Act (JTPA) plan. The majority of PIC members represent the private sector.
- (bb) "Provider Contract" means the negotiated agreement between the CWD and the agency or individual providing job services, training, education or supportive services.
- (cc) "Refugee Cash Assistance (RCA) GAIN Participant" means a refugee applicant or recipient who meets the requirements of MPP Sections 69-206.12 and who is participating in GAIN as directed by the county plan.
- (dd) "Refugee Resettlement Program (RRP) Services" means employment-directed services which are designed to

remove the barriers to immediate employment. Services may include employment services, vocational training, vocational English as a second language, on-the-job training, English as a second language, and support services.

(ee) "Registrant" means an AFDC applicant or recipient who is registered for GAIN.

(ff) "Registration" means the process whereby an AFDC applicant or recipient is registered by the CWD for GAIN.

(gg) "SDSS" means the State Department of Social Services.

(hh) "Service Delivery Area (SDA)" means a geographical area comprised of one or more units of general local government designated by the Governor according to JTPA to promote effective delivery of job training services under JTPA.

(ii) "Subsidized Employment" means an assignment in which the participant's employer is partially reimbursed for wages and/or supervision and/or training costs.

(jj) "Substitute Payee" means someone selected by the CWD or the recipient, if the CWD is unable to name someone, to whom payments are made on the recipient's behalf during money management.

(kk) "Supervised Job Search" means an organized method of seeking work which includes access to phone banks, job orders, and direct referrals to employers. Supervised job search is overseen, reviewed, and critiqued by a person who has been trained or has experience as an employment counselor.

(ll) "Supported work" means a gradual approach to employment which provides intensive training for long-term recipients with little or no employment history or marketable skills. Supported work can be a form of grant diversion where the grant, or a portion thereof, is diverted to an intermediary service provider.

(mm) "Supportive Services" means child care, transportation costs, ancillary expenses, and, as available and needed, personal counseling.

(nn) "Targeted Assistance (TA) Funded Services" means employment directed services to refugees which reduce

dependency, promote self-sufficiency, enhance employment potential, as well as increase refugees' ability to find and retain jobs. Services may include, but are not limited to employment services, job development, on-the-job training, economic development, professional skills upgrading, licensing and certification, intake and assessment, vocational training, work experience, and supportive services.

(oo) "Transitional Employment" means training or employment for participants which can be a form of grant diversion where the grant, or a portion thereof, is diverted to an intermediary service provider.

(pp) "Unsubsidized Employment" means all employment other than subsidized employment.

(qq) "Unsupervised Job Search" means a participant independently seeking work and making periodic progress reports no less frequently than every two weeks to the CWD or agency contracting with the CWD.

(rr) "Volunteer" means an AFDC applicant or recipient who, though exempt from registration, voluntarily registers for GAIN.

Authority: welfare and Institutions Code Sections 10553, 10554, and 10604(b).

Reference: welfare and Institutions Code Sections 10553 and 11320, et seq.

Adopt MPP Section 42-720 to read:

42-720 THE GAIN COUNTY PLAN

42-720

.1 Plan Approach

.11 The CWO, with the cooperation of community college districts, county offices of education, and local Private Industry Councils, shall design a package of services to be provided to GAIN participants that reflects local job market needs and resources.

.111 A joint plan may be submitted by two or more counties.

.12 The package of services shall provide an adequate range of services (refer to .58 below).

.121 The range of services, which include job services, education, job training, and supportive services, is described in Sections 42-730 and 42-750.

.13 The primary GAIN participants are AFDC applicants and recipients. The county may also provide services to refugees receiving or applying for Refugee Cash Assistance (RCA) and/or to General Assistance applicants and recipients, except that no funds appropriated for GAIN shall be used to serve these individuals.

.131 If a county elects to serve these individuals, the county shall maintain separate accounting records of expenditures for AFDC applicants and recipients and for RCA and General Assistance applicants and recipients.

.132 Separate accounting records shall also be maintained for participants who are time-eligible refugees receiving federally funded AFDC benefits.

.133 If a county elects to serve General Assistance applicants and recipients, the individuals shall have the same rights, duties, and responsibilities as GAIN AFDC participants. Any participation by General Assistance individuals shall not constitute any actual or implied responsibility for, or assumption of, costs or general assistance by the state.

.2 Time Frames

- .21 The CWD shall submit its initial GAIN county plan to SDSS for approval by September 25, 1987.
- .22 The CWD shall submit to SDSS its preliminary annual update for the budget year by November 1 of each year. The preliminary annual update shall include any program changes proposed by the county and the budget proposal for all costs for CWD staffing and contracted client services.
- .23 The CWD shall submit its annual update of related CWD support and overhead administrative costs at the same time as the county submits its administrative Cost Control Impact Questionnaire for the AFDC, Medi-Cal, and Food Stamp programs.

.3 County Plan Content

- .31 The county plan shall include a participant and labor market needs assessment which shall be updated and resubmitted to SDSS on an annual basis.
- .32 The participant and labor market needs assessment shall specify all of the following:
 - .321 The full employment goal of the plan, which shall be the provision of unsubsidized employment for all GAIN participants.
 - .322 An assessment of the county's current and projected employment and child care needs.
 - (a) The CWD shall develop the assessment of child care needs in cooperation with the local child care resource and referral agency.
 - .323 An inventory of employment, training, and supportive services available to county residents.
 - .324 The amount and kind of services required to meet the full employment goal for all registrants.
 - (a) The CWD shall study the characteristics of its potential participant caseload. From this caseload analysis, the CWD shall specify its target groups and the choices that shall be made available to each target group.

(b) The CWD shall make available all of its programs to each target group, but may give priorities for certain programs to individuals for whom these programs are reasonably expected to be the most effective. (Refer to Section 42-730.5.)

(1) RRP/TA programs shall only be used for eligible refugees.

.325 The amount and kind of services that will be used in the plan year, including the methodology for the provision of services.

(a) The methodology must specify how the CWD will cooperate with and maximize the use of education, JTPA, child care, child care resource and referral agencies, child care alternative payment programs, job service, and other appropriate local service providers.

(b) To the extent existing programs and services are available to county residents, each plan shall specify the manner in which these programs and services will be utilized.

(1) A county may incorporate into its plan any existing employment or training program which is consistent with GAIN services.

(A) If services are not available in the county, the plan may include provisions for the purchase of services from other counties.

(2) If the county plan proposes to establish services from new providers, including the CWD, which currently are or could be provided by existing publicly funded local service providers, the plan shall include a rationale for taking this approach.

(A) The CWD shall provide documentation that it will have

the ability to provide an adequate level of services to participants in a cost-effective manner, as specified in .58 below.

(3) The CWD shall reference the existing county plan(s) for RRP and TA funded services and describe how refugee services will be coordinated with GAIN.

.326 An assessment of services that are currently unavailable and needed, including child care services, to meet the full employment goal and a plan for developing the availability of these services within a reasonable period of time.

(a) This shall include a description of the types of service provider contracts and procurement methods that the CWD proposes to use.

.33 The county plan shall include a program budget proposal in a format provided by SUSS.

.331 The budget proposal shall detail the costs associated with providing the range of services included in the plan. The budget proposal shall identify:

(a) The amount of funds, including RRP/TA funds, that the CWD expects to spend for each component with supporting detail regarding the caseloads anticipated in each component.

(b) Salary and benefit expenses for CWD employees by classification; administrative support and overhead costs; and, contractual services.

(c) Funding from sources other than GAIN.

(d) Other GAIN costs, e.g., supportive services.

.34 The county plan shall specify the formal grievance procedures established by the county board of supervisors.

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.341 Formal grievance procedures established by the counties may include:

- (a) A prompt hearing before an independent, impartial hearing officer;
- (b) The right to present evidence and question witnesses;
- (c) The right to a written statement from the county in advance of the hearing setting forth the facts and basis of the county's position;
- (d) The right to a written decision making findings of facts and conclusions of law and informing the participant of his/her right to appeal the decision through the state hearing procedure;
- (e) The right to be represented by an attorney or other representative;
- (f) The right to have access to all relevant documents and information in advance of the hearing;
- (g) The right to a tape recorded or other verbatim record of the hearing.

.35 The county plan shall include a statement that the CWD has the capability to collect the data required in Section 42-720.7.

.4 County Board of Supervisors Plan Approval

.41 The initial county plan shall be approved by the county board of supervisors after a public hearing is held in accordance with existing county public hearing procedures. Such procedures shall provide adequate notice and an opportunity for affected groups and individuals to present their views and suggestions.

.411 In approving the plan, the board shall consider the views presented by affected parties, and include these views as part of the record of the public hearing. The county shall ensure that these records are available for three years.

.412 Annual updates to the county plan shall be approved by the county board of supervisors without the requirement of a public hearing.

.5 SDSS County Plan Approval

.51 Prior to implementation, and at the beginning of each fiscal year following the initial plan approval, each plan shall be approved by SDSS.

.52 SDSS will respond to the CWD regarding the initial county plan within 90 days of its submittal.

.53 Prior to final approval of the initial county plan, the CWD shall be notified of the amount of its allocation to carry out the plan and the assumptions used to develop the allocation.

.531 If the allocation is less than the amount of funds that the CWD proposed in the program budget proposal, the CWD shall be notified that the proposed program budget exceeds the funds available and how the proposed costs exceed the costs used to develop the allocation.

.532 The CWD may provide any additional documentation to justify the funding for any staff, overhead, or contracts not included in the allocation.

.533 If, after reviewing the additional information, SDSS finds any of the proposed program costs are justified, and funds are available, SDSS will revise the allocation accordingly. If, however, SDSS finds that the proposed program costs are not reasonable or cost effective, the CWD shall submit any revisions to its plan that may be necessary to keep program expenditures within the amount of its allocation.

.54 SDSS will provide an initial response to the preliminary annual update within 60 days of its submittal.

.55 The CWD will be notified of its tentative allocation for CWD staffing and contracted client services 30 days following the initial response provided in .54 above.

.551 If the tentative allocation is less than the amount of funds that the CWD proposed in its preliminary annual update, the CWD shall be notified that the proposed program budget exceeds

the funds available and now the proposed costs exceed the costs used to develop the tentative allocation.

.552 The CWD may provide any additional documentation to justify a higher funding level for staffing and/or contracted client services within 30 days of receipt of the tentative allocation.

.553 If after reviewing the additional information, SDSS finds any of the proposed program costs are justified, and funds are available, SDSS will revise the allocation accordingly. If, however, SDSS finds that the proposed program costs are not reasonable or cost effective, the CWD shall submit any revisions to its plan that may be necessary to keep program expenditures within the amount of its allocation.

.56 In each year following the initial year of implementation, SDSS will notify the county of its final allocation after the Budget Act has been signed into law.

.57 SDSS approval of a county plan is dependent upon the following, among other things:

.571 The overall cost effectiveness of the plan.

.572 The appropriateness of the services proposed to be delivered under the plan considering the following:

(a) Caseload estimates;

(b) The adequacy of the participant, labor market, and child care needs assessments;

(c) The number of services proposed based on the participant, labor market, and child care needs assessments;

(d) The establishment of relationships to facilitate contracting and to ensure coordination and provision of services; and

(e) The adequacy of the organizational structure(s) being proposed to implement the county plan.

.58 A plan will be approved only if it provides an adequate range of services.

.581 For large counties, as defined by SDSS for AFJC cost control purposes, "an adequate range of services" means that the CWDs shall provide all of the job services, education, job training, and supportive services described in Sections 42-730 and 42-750.

(a) If two or more counties submit a joint plan, and the joint plan serves a caseload equal to or greater than a large county, the plan shall provide for all of the above services.

.582 Except for CWDs subject to Section 42-720.581, if all of the services are not provided for in the county plan, the CWD shall submit a justification as to why the services are not included.

(a) A plan will not be approved which requires job search and preemployment preparation of participants to the exclusion of a range of services, and which does not specify the range of services, both existing and proposed to be offered participants.

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.59 SDSS will establish and maintain a plan whereby costs for the GAIN program will be effectively controlled within the amounts annually appropriated for such administration. Reimbursement for the federal and state share of GAIN expenditures is subject to the provisions of SDSS's GAIN Allocation Plan.

.5 CWD Reduction Plan

.61 The CWD shall monitor its program expenditures throughout the fiscal year.

.62 If the CWD's expenditure pattern after consultation with SDSS, is determined to be inconsistent with the county plan, the CWD shall submit the following to the Department:

.621 The current expenditure projection by component;

.622 An explanation of the causes of any projected cost overrun; and

.623 A statement proposing to reduce costs in accordance with the specified methods in .63 below.

.63 The CWD shall use the following methods to reduce costs and shall use only those methods that are necessary to bring anticipated expenditures within the amounts allocated to the CWD. These methods shall be used for only a specified period and only in the order in which they appear below:

.631 Temporary deferral of new applicants for aid under the Aid to Families with Dependent Children - Unemployed Parent Program.

.632 Temporary deferral of all Aid to Families with Dependent Children - Unemployed Parent recipients who have been continuously on aid for less than one year.

.633 Temporary assignment of volunteer registrants to a waiting list, during which time these registrants will receive no services.

.634 Temporary deferral of all new applicants for aid under the Aid to Families with Dependent Children - Family Group Program.

.635 Temporary deferral of all Aid to Families with Dependent Children - Unemployed Parent recipients who have been on aid for one year or more.

.636 Temporary deferral of all Aid to Families with Dependent Children - Family Group recipients who have been on aid continuously for less than one year.

.637 Temporary deferral of all Aid to Families with Dependent Children - Family Group recipients who have been continuously on aid for less than two years.

.638 Temporary deferral of all participants, based on the time on aid, with participants who have been on aid the longest being the last to receive deferrals.

.64 SOSS will review and respond to a CWD's proposed reduction plan within 30 days of receipt of the plan.

HANDBOOK

.641 SDSS may provide additional funds, if available, to the CWD to forestall the need for CWD program reductions.

.642 SDSS may approve the CWD's proposed reduction plan.

(a) The CWD's approved reduction plan shall remain in effect for no longer than the duration of the fiscal year in which the plan is approved.

.643 If SDSS does not take action in accordance with .641 or .642, SDSS will continue funding approved program activities and will work with the CWD to develop a satisfactory plan of action for providing services in the original county plan or for submitting a revised reduction plan.

.7 Data Collection

.71 The CWD shall collect data in accordance with SDSS statistical reporting requirements. (Refer to Sections 26-010 and 26-020.) The data shall include, but not be limited to the following:

(a) The numbers of voluntary and mandatory participants in each program component.

(b) The amount of time that each participant remains in each component and the types of services, including supportive services each participant receives.

(c) The number of participants in each component that move to each of the other components.

(d) The number of participants sanctioned as well as the amount and duration of the sanction, the reason for the sanction, and the amount of time the participant was in the program prior to the sanction.

(e) Data that will lead to a determination of the appropriateness of sanctions.

(f) The number of participants who go off aid, and to the extent possible, the reason they have gone off aid.

- (g) The number of applicants who reapplied for and received aid after having gone off aid during the time they were participating in the program.
- (h) The starting salary of employed participants.
- (i) Participants' job retention rates.
- (j) Data that will lead to a determination of the appropriateness of the categorization of participants.
- (k) Data that will lead to a determination of the appropriateness of assessments and employment plans.
- (l) The effectiveness of training components based upon the number of individuals placed in employment.
- (m) Data that will lead to a determination of the appropriateness of preemployment preparation assignments, including a periodic review of the appropriateness of these assignments.
- (n) The timeliness of preemployment preparation assignment reviews.

.72 If the CWD uses RRP/TA funds for refugees who are GAIN participants, data shall be separately collected and reported to meet RRP/TA reporting requirements.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 10604(b).

Reference: Welfare and Institutions Code Sections 10553, 11320.2, and 11320.65.

Adopt MPP Section 42-730 to read:

42-730 GAIN JOB, TRAINING, AND EDUCATION SERVICES

42-730

- .1 The CWD may provide job, training, and education services directly, or by referral to services provided by the PIC, to program participants or enter into contracts or interagency agreements as specified in Section 42-740 with private or public agencies for the provision of these services.

HANDBOOK In order to receive training or services funded under the Job Training Partnership Act (JTPA), a GAIN participant must be certified as eligible pursuant to procedures established by the PIC that serves the area of residence of the participant.

- .11 Each CWD shall, in providing job, training, and education services to participants, provide services to each participant which will best meet his/her needs as determined by the assessment specified in Section 42-773.

- .12 Services to be provided to each participant shall be specified in the basic or amended contract entered into between the CWD and the participant as specified in Sections 42-772 and/or 42-774.

- .121 The CWD shall not place a participant involuntarily in any other training or education component while the participant is waiting for assignment to a component agreed to in his/her contract.

- .122 The CWD shall provide for job search services for the participant until the training or education services designated in the participant's contract are available.

- .2 Job Services shall include:

- .21 Job Club, which shall consist of job search workshops as described in .211 below and supervised job search as described in .22 below:

- .211 Job Search Workshops

- (a) Job search workshops are group training sessions where participants learn various job finding skills including training in basic job seeking skills, job development

skills, job interviewing skills, understanding employer requirements and expectations, and how to enhance self-esteem, self-image, and confidence.

.22 Supervised Job Search

.221 Supervised job search is an organized method of seeking work which includes access to phone banks in a clean and well-lighted place, job orders, and direct referrals to employers, which is overseen, reviewed and critiqued by a person who has been trained or has experience as an employment counselor.

.222 The amount and type of activity required during the supervised job search period shall be determined based on the participant's employment history and need for supportive services.

.23 Unsupervised Job Search

.231 The participant shall independently seek work and make periodic progress reports no less frequently than every two weeks to the CWD or the agency contracting with the CWD. The CWD or agency shall be permitted to verify the reported job search efforts.

.24 Job Placement

.241 Job placement activities shall include, but not be limited to, referrals to jobs listed by employers with the Employment Development Department's State Job Service.

.25 Job Development

.251 Participants shall be provided active assistance in seeking employment, on a one-to-one basis, by a person who has been trained or has experience as an employment counselor.

.26 Employment Counseling

.261 Such counseling shall be aimed at helping the participant reach an informed decision on an appropriate employment goal, and shall be performed by a person who has been trained or has experience as an employment counselor.

.3 Training services shall include:

.31 Job Training

.311 Job training shall include, but not be limited to, training in employer specific job skills in a classroom or onsite setting, including training provided by local private industry council programs and community colleges.

.32 Preemployment Preparation (PREP)

.321 PREP shall be an assignment with a public or private nonprofit agency that provides the participant with either of the following:

(a) Basic PREP, which shall provide work behavior skills and a reference for future unsubsidized employment; or,

(b) Advanced PREP which shall provide on-the-job enhancement of existing or recently acquired participant skills.

.322 Basic and advanced PREP assignments may be either short-term or long-term assignments.

(a) Short-term PREP assignments shall be for not longer than three months and may be provided as a preparation for other education and training services as a part of the contract amendments as specified in Section 42-774.

(b) Long-term PREP assignments shall not exceed one year.

(1) A long-term advanced PREP assignment shall be in a position related to a participant's experience, training, or education acquired as a result of the services provided pursuant to the participant contract between the participant and the CWD as specified in Section 42-774.

.323 The number of hours a person participates in a PREP assignment shall be determined by adding his/her AFDC grant, less any child support paid to the county, and his/her food stamp allotment, and

dividing the sum by the average hourly wage for all job orders placed with the Employment Development Department (EDD), as determined annually by the EDD.

(a) A PREP assignment shall not exceed 32 hours per week.

(b) In the event that the participant's food stamp allotment is at least twice the AFDC grant amount, his/her PREP hours shall not exceed those arrived at by dividing his/her grant amount by the greater of the federal or state minimum wage.

.324 If the recipient was overpaid (Section 44-350.13) and as a result of the overpayment, worked more hours in a PREP assignment than would have been required if the overpayment did not occur, the CWD shall provide that:

(a) The number of hours the recipient is required to work in future months based on the method in .323 above will be reduced by the number of hours which correspond to the amount of the overpayment recouped through a grant adjustment, voluntary cash recovery, or voluntary grant offset. This number of hours is determined by dividing the amount of the recoupment by the average hourly wage used in .323 above.

(b) If a participant ceases to participate in the PREP assignment before the adjustment in hours can be made, the remaining overpayment amount shall be forgiven.

.325 The participant assigned to PREP shall be expected to continue to seek employment.

.326 At any time during a participant's PREP assignment, he/she may request job services as specified in Section .2 above.

(a) The combination of job search services and the PREP assignment shall not exceed 40 hours per week.

.33 Grant Diversion

.331 Grant diversion shall be public or private sector employment or OJT at comparable wage rates, in which the participant's cash grant, or a portion thereof, is diverted to the employer as a wage subsidy.

.332 Supported work and Transitional Employment are types of grant diversion programs in which the recipient's cash grant, or a portion thereof, is diverted to an intermediary service provider.

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(a) Supported work is a gradual approach to employment in a work environment which includes intensive basic training for long-term recipients with little or no employment history or marketable skills.

(b) Transitional employment provides experience and training in a work environment for participants who have some marketable skills or a history of employment.

.333 The CwD shall be permitted to create a special fund for the purpose of diverting the grant or a portion of the grant. The CwD shall be permitted to reimburse the employer from this special fund pursuant to a contract developed by the CwD or a PIC with the employer.

.334 The CwD shall administer the grant diversion, supported work, and transitional employment projects so that the participant does not receive less disposable income than if he/she had not participated in the project.

(a) Disposable income means the income available to the recipient by adding the aid payment and earnings from the grant diversion project, and subtracting the allowable employment related expenses as specified in Section 44-113.

.335 The CwD shall ensure that the participant does not experience a break in income, either as a grant payment or as a wage subsidized by the diverted grant, during the participant's transition into a grant diversion assignment.

.336 The CwD shall not implement a grant diversion, supported work, or transitional employment program

until the CWD's plan for such a program is approved by SOS.

.4 Education services shall include:

.41 Adult Basic Education

.411 Adult basic education shall be preemployment basic education, which includes reading, writing, and arithmetic necessary for employment or job training, including high school proficiency.

.42 College and Community College Education

.421 College and community college education shall provide sufficient employment skills training that can reasonably be expected to lead to participant employment.

.43 Vocational English-as-a-Second-Language (VESL)

.431 Vocational ESL shall be intensive instruction in English for non-English speaking participants and shall be coordinated with specific job training.

.44 Utilization of an educational program shall not exceed two academic years.

.5 Priority in Providing Services (see Section 42-720.234).

.51 The CWD shall give priority in providing expensive services and services which must be provided for a lengthy period of time, such as supported work, transitional employment, and lengthy classroom training, to persons who have been recipients of AFDC for at least two years, or who have little or no employment history.

.52 The CWD shall provide less costly services and short-term services to program participants who have been recipients of AFDC for less than two years and who have a history of employment.

.521 The CWD may provide a program participant with more costly services and services which must be provided for a lengthy period of time if it is determined through the development of the employment plan as specified in Section 42-773 that the less costly and short-term services would not be effective in assisting a program

participant to achieve the ultimate goal of
obtaining unsubsidized employment.

Authority: Welfare and Institutions Code Sections 10553,
10554, and 10604(b).

Reference: Welfare and Institutions Code Sections 10553,
11320.3, 11320.4, 11320.5(d) and (e), and
11320.55.

Adopt MPP Section 42-740 to read:

42-740 PURCHASE OF GAIN JOB, TRAINING
AND EDUCATION SERVICES

42-740

- (a) Contracts between the CWD and providers of job, training or education services, including employers providing PREP, shall include specific criteria as follows:
- (1) Contracts shall include the provision of participant job placement activities by the education or service provider.
 - (2) Contracts shall provide for termination of the contract at the discretion of the CWD if the provider either:
 - (A) Violates the contract between the CWD and the participant as specified in Section 42-774; or,
 - (B) Fails to meet the performance criteria specified in the contract with the CWD.
 - (3) Contracts shall specify the conditions outlined in either (c) or (d) below, as appropriate.
 - (4) Contracts shall specify the criteria for successful participant completion of the job, training, or education program, which shall be based on the contractor's normal standard of attendance or performance.
 - (A) Contracts shall provide for reporting the participant's attendance and progress to the CWD at regular intervals.
 - (b) Contracts for on-site job training programs, including PREP, as specified in Section 42-730.3, shall provide that the contracting provider obtain worker's compensation insurance for participants.
 - (c) The provision of job training and education services other than PREP and QJT as specified in Sections 42-730.3 and .4, respectively, by an entity contracting with the CWD shall be made in accordance with a competitively selected fixed-unit price performance based contract.
 - (1) Job training and education services funded by sources other than GAIN shall not be subject to GAIN fixed-unit price contracts or to GAIN performance standards.

(2) Under these contracts, full payment shall not be considered earned by the contractor until either of the following has occurred:

(A) The participant has successfully completed the education program.

1. A prorata share of the payment shall be paid to the education provider if the participant does not complete the education program.

(B) The participant has successfully completed the job training program and has been retained in unsubsidized employment for at least 180 days.

1. Up to 70 percent of the fixed unit price for job training may be paid upon placement in unsubsidized employment.

2. At least 30 percent of the fixed unit price for job training shall be withheld for the follow-up during the 180-day retention period for unsubsidized employment.

(1) Progress payments shall be made from the 30 percent withholding portion upon evidence of participant job retention at 30, 90, and 180 days.

3. A prorata share of the 70 percent payment shall be paid to the job training provider if the participant does not complete the job training either through failure to cooperate, as determined by the CWD, or the attainment of unsubsidized employment not related to the training.

(1) Up to 70 percent of the fixed-unit price for job training may be paid if the participant does not complete the training but attains unsubsidized employment related to the training.

(11) If the participant in (1) above is retained for at least 180 days in unsubsidized employment, the remaining percentage shall be paid.

(c) An employment or job training program position, other than a PREP position, may not be created as a result of, or may not result in, any of the following:

- (1) Displacement of current employees, including overtime currently worked by these employees.
- (2) The filling of positions which would otherwise be promotional opportunities for current employees.
- (3) The filling of a position prior to compliance with applicable personnel procedures or provisions of collective bargaining agreements.
- (4) The filling of a position created by termination, layoff, or reduction in workforce, caused by the employer's intent to fill the position with a subsidized position.
- (5) A strike, lockout, or other bona fide labor dispute, or violation of any existing collective bargaining agreement between employees and employers.

(d) A PREP position may not be created as the result of, or may not result in, any of the following:

- (1) Displacement of current employees, including overtime currently worked by these employees.
- (2) The filling of established unfilled positions, unless the positions are unfunded in a public agency budget.
- (3) The filling of positions which would otherwise be promotional opportunities for current employees.
- (4) The filling of a position, prior to compliance with applicable personnel procedures or provisions of collective bargaining agreements.
- (5) The filling of a position created by termination, layoff, or reduction in workforce.
- (6) The filling of a work assignment customarily performed by a worker in a job classification within a recognized collective bargaining unit in that specific worksite, or the filling of a work assignment in any bargaining unit in which funded positions are vacant or in which regular employees are on layoffs.

- (7) A strike, lockout, or other bona fide labor dispute, or violation of any existing collective bargaining agreement between employees and employers.
- (e) The CWD shall be responsible for receiving and resolving complaints regarding displacement.
- (f) The CWD shall ensure that the sponsor of a PREP assignment shall assist and encourage qualified PREP participants to compete for job openings occurring within the sponsor's organization.
- (g) A PREP participant assigned to public agencies shall be allowed to:
- (1) Participate in classified service examinations equivalent to the position he/she occupies.
 - (2) Participate in all open and promotional examinations for which experience in the position or other relevant experience is qualifying under merit system rules.
- (h) Time worked in public agency PREP positions shall apply toward the participant's seniority in the merit public agency positions.
- (i) Contracts and agreements with employers or intermediary service providers for grant diversion, supported work, or transitional employment projects as specified in Section 42-730.33, shall provide that:
- (1) Participants shall be employed or retained upon successful completion of the grant diversion, supported work, or transitional employment period.
 - (2) The employer shall not discriminate against participants on the basis of race, sex, national origin, age, handicap, color, political affiliation, marital status, or religion.
 - (3) The employer or service provider shall obtain and maintain a surety bond in an amount equal to the total annual grant diverted to the employer or service provider.
- (j) Except as specified in Sections 42-785 and/or 42-786, the CWD shall ensure that there shall be no interruption in the participant's receipt of income, whether as wages from the employer or aid payments from the CWD due to the employer's conduct.

(k) The CWD shall take action to recover from the employer or intermediary service provider any grant or portion of a grant that was lost due to fraud, malfeasance or theft by the employer or intermediary service provider.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 10604(b).

Reference: Welfare and Institutions Code Sections 10553, 11320.3, 11320.35, 11320.36, and 11320.8.

Adopt MPP Section 42-750 to read:

42-750 SUPPORTIVE SERVICES

42-750

- .1 Supportive services shall be provided to GAIN registrants to enable them to participate in GAIN activities or to accept employment opportunities. As specified in Section 42-783.1(k) or 42-782.1(g), participation shall not be required if the needed services are not available, not arranged, or are insufficient to meet the participant's needs.
 - .11 At a minimum, these services shall include child care, transportation costs, ancillary expenses, and personal counseling.
- .2 Child care services shall be available to every GAIN participant with a child under 12 years of age who has indicated the need in their basic or amended contract. CWDs are encouraged to contract with existing public and private child care programs to provide any or all of the services specified in this subdivision. Child care by family members shall be encouraged, but the choice between licensed or exempt child care arrangements shall be made by the participant.
 - .21 Child care arrangements provided through GAIN shall meet the following standards:
 - .211 Standards required under Title 22, California Administrative Code, Division 12, Chapter 3 (commencing with Section 101251), unless exempt from licensure.
 - .212 If the CWD chooses to contract with any child care provider which is also under contract with the State Department of Education. (SDE), these contracts shall be consistent with and shall not supersede all of the following:
 - (a) Chapter 2 (commencing with Section 3200) or Part 6 of the Education Code.
 - (b) Applicable provisions of Title 5 and Title 22 of the California Administrative Code.
 - (c) Applicable SDE contract provisions.

.213 If the CWD or a contractor pays for child care services which are exempt from licensure with the exception of extended day care on a school site operated by school employees, all of the following information about the care provider shall be on file with the CWD, or agency contracting with the CWD, and shall be made available to the participant:

- (a) The care provider's name, address, and social security number.
- (b) The address where care is to be provided.
- (c) The hours care is to be provided, and the charge for this care.
- (d) The names, addresses, and telephone numbers of two character references.
- (e) A copy of a valid California driver's license or other identification to establish that the care provider is at least 18 years of age.
- (f) A statement from the care provider as to his or her health; education; experience; or other qualifications; criminal record; and names and ages of other persons in the home or providing care.

.22 In order to provide maximum choice to parents and to ensure the availability of child care, each county shall do all of the following:

.221 Assist participants in locating child care necessary for participation in GAI, and for the post-program transition period consistent with Section .24 below. In so doing, the CWD shall:

- (a) Allow and promote parental choice by providing flexibility in child care arrangements and establishing payment arrangements consistent with Section .23 below.
- (b) Provide payment for and assist in arranging for the continuity of child care.

- (c) Provide payment for and assist in arranging for child care to participants whose program demands flexible hours of care, including evenings, weekends, and split shifts.
 - (d) To the extent possible, provide payment for and assist in arranging for transportation of children between school and care, if reasonable and necessary.
- .222 Coordinate with child care resource and referral agencies, school districts, and other local providers in the development of new child care resources where needed.
- .223 Include in the participant contracts referred to in Sections 42-771 through 42-774 the following information in relation to child care services provided in the GAIN program:
 - (a) The name, birthdate, and sex of each child for whom care is to be provided.
 - (b) The types of child care to be provided, including care in the child's home, family day care, or center-based care.
 - (c) The scheduled hours of care per week.
 - (d) The beginning and anticipated ending dates of care, based on the participant's training program.
 - (e) The name and address of the child care provider.
 - (f) The rate of pay for child care services.
 - (g) Provisions for payment during temporary absences of the child or provider. (See .235 below.)
- .224 An amendment to the participant contract shall not be required in instances where the only change relates to child care arrangements. However, the basic contract shall specify that the participant shall notify the CWO of any such changes. This information shall be included in the participant's case file.

.23 Child Care Costs

.231 GAIN funds may be used to pay for child care services arranged by the participant, providing those costs do not exceed regional market rates as specified in .233 below, and they meet the standards set forth in .21 above.

.232 Child care payments for GAIN participants shall be paid on a per month, per week, per day, or per hour basis depending on the participant needs, and the contractual terms used by the care providers to charge private clients for the same services.

.233 Participants shall be allowed to choose licensed or exempt child care, and the cost shall be reimbursed up to the regional market rate.

(a) Regional market rates shall be determined annually in accordance with resource and referral programs provided for under Article 2 (commencing with Section 8210) of Chapter 2 of Part 6 of the Education Code, and the Alternative Payment program provided for under Article 3 (commencing with Section 8220) of Chapter 2 of Part 6 of the Education Code.

(b) The regional market rate means care costing no more than 1.5 standard deviations above the mean market cost of care for that region.

(1) The mean rate for a particular type of child care in a particular region is 75 percent of the daily reimbursement rate set by SOE for the Alternative Payment program serving that area multiplied by the appropriate adjustment factor listed in Article 3, Section 8265.5 of Chapter 2 of Part 6 of the Education Code.

(A) If no Alternative Payment program currently serves the area, the CWD shall work with the child care resource and referral agency in the area to establish the daily

reimbursement rate for
computing the mean according to
the procedures required by SDE
of agencies applying for
contracts to operate
Alternative Payment programs.

.234 Reimbursement to child care providers for GAIN
participants shall not exceed the fee charged to
private clients for the same service.
Reimbursement shall be made at a rate lower than
that charged to private clients for the same
service, if the child care program agrees to
charge a lower fee.

.235 GAIN funding will be available to pay for child
care services when the child is temporarily absent
from care, if it is agreed to pursuant to .223(g)
above. Payment may be made for temporary absences
only for the following verified reasons:

- (a) Illness or quarantine of the child;
- (b) Illness or quarantine of the parent;
- (c) Family emergency;
- (d) Court ordered visits with a parent or other
relative of the child; or
- (e) Other reasons approved by the CWD.

.24 If a GAIN registrant terminates AFDC dependency due to
earnings from unsubsidized employment, payment for child
care services in accordance with Section .221 above
shall be available for a transition period of three
months.

(a) This transition period commences immediately
following the discontinuance of AFDC.

.22 The CWD shall ensure that there is a mechanism for
collecting fees from participants receiving GAIN child
care subsidies in accordance with the most recent
version of the SDE Family Fee Schedule.

HANDBOOK

No fee is charged if a participant's family income,
including the AFDC grant, is less than 50 percent of the
annually adjusted state median income.

- .251 The fees collected by the CWD, or agency contracting with the CWD, shall be used to expand child care services or resources.
- .3 Reasonable transportation costs shall be paid for every participant to and from his or her GAIN assignment, including transportation to and from the child care provider.
- .31 Regional market rates for transportation shall be determined as follows:
- .311 The least costly form of public transportation that would not preclude participation in GAIN as specified in Section 42-783.1(d).
- .312 If there is no public transportation available which meets the requirements of .311 above, participants may use their own vehicles, and shall be reimbursed at a rate equal to the rate used to reimburse CWD employees.
- .313 Parking for GAIN participants shall be reimbursed at actual cost. Participants must submit receipts for this purpose, except in cases where parking meters are used.
- .314 Reimbursement to participants who choose to use their own vehicles when public transportation is available shall not exceed the rate specified in .311 above.
- .315 The CWD shall submit as part of their county plan, an alternative for rural areas in which there is no public transportation available, and where a per-mile reimbursement rate would result in excessive costs.
- .4 Ancillary expenses shall be paid when necessary up to a maximum of \$450. These shall include books, tools, clothing, fees, and other necessary costs of a work or training assignment.
- .5 A person who has personal or family problems that are jeopardizing the successful outcome of the employment plan entered into pursuant to Section 42-773 shall, to the extent available, receive necessary counseling or therapy to help him or her and his or her family adjust to his or her job training assignment.

.51 The CWD shall specify the method(s) that it will use to provide these services in its initial county plan and annual updates.

.6 Payments for supportive services shall be advanced to the participant whenever necessary and desired by the participant, so that the participant need not use his or her funds to pay for these services.

HANDBOOK The CWD should minimize the need to make advance payments to participants by paying for services directly whenever necessary or desired. The CWD should seek recoupment of any unused portion of an advanced payment whenever possible.

.61 Payments for supportive services, including reimbursement to licensed child care providers, shall be governed by regional market rates.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 10604(b).

Reference: Welfare and Institutions Code Sections 10553, 11320, 11320.3.

Adopt MPP Section 42-760 to read:

42-760 GAIN REGISTRATION

42-760

- .1 The CWD shall determine whether an individual is required to register for GAIN:
 - .11 At the time an individual applies for aid; or
 - .12 At the time an exempt individual becomes nonexempt; or
 - .13 At the time a recipient's eligibility for aid is redetermined; or
 - .14 In accordance with the county phase-in plan.
- .2 The individuals required to register for GAIN are defined in Section 42-625. The exemption criteria are listed in Sections 42-631 through 42-641.
 - .21 An exempt individual may volunteer to participate in GAIN.
- .3 At the time the determination is made, the CWD shall register nonexempt individuals and volunteers.
 - .31 Registration for GAIN shall be a condition of eligibility for aid with the following exceptions:
 - .311 Any delay in registration due to circumstances beyond the individual's control shall not adversely affect his or her eligibility for aid.
 - .312 Registration for GAIN shall not be considered a condition of eligibility for any person who has not yet been phased into the program.
 - (a) The CWD shall be permitted to phase in applicants and recipients over a period of up to two years from the date GAIN is implemented in the county.
- .4 Gain registration shall include:
 - .41 Providing a general description of the GAIN program and the availability of job, training, education, and supportive services.

•42 Advising the nonexempt individual of his/her rights, duties, responsibilities, and consequences of a failure or refusal to register or participate in the program.

•421 The CWD shall advise the individual of his/her right to a state hearing to contest the denial or discontinuance of AFDC benefits due to the refusal to register.

•43 Informing the exempt individual of the right to voluntarily register and to withdraw such registration without loss of AFDC benefits.

•44 Requesting nonexempt and volunteer individuals to sign the GAIN registration form to document registration.

•441 The CWD shall give a copy of the form to the registrant.

•442 If the nonexempt individual refuses to register, the CWD shall follow procedures in Section 42-655.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 10604(b).

Reference: Welfare and Institutions Code Sections 10553, 11320.1, 11320.2(f), 11320.5(a), 11310, and 11347 et seq.; and 45 CFR 224.20(c).

Adopt MPP Section 42-761 to read:

42-761 GAIN REGISTRANT APPRAISAL

42-761

.1 As soon as administratively possible but within 20 working days after registration, the CWD shall perform the following:

.11 Complete a written preliminary determination that the registrant is a member of a targeted group, for purposes of the federal Targeted Jobs Tax Credit and the California Jobs Tax Credit.

HANDBOOK

.111 A GAIN registrant, if hired, may qualify an employer for income tax credit.

.112 A tax credit form shall be given to the registrant.

.113 Advise the registrant to tell employers of the tax credit eligibility and to give the form to an employer when hired.

HANDBOOK

(a) The employer may send the form to the appropriate EDD office for certification.

.12 Obtain information that assist in determining the status of the registrant.

.121 A self-appraisal form completed by the registrant may be used.

.122 The information collected shall include but not be limited to the following:

(a) Questions relating to the deferral criteria listed in .3 below.

(b) Whether the registrant has been employed during the past two years.

(c) Whether the registrant was discontinued from AFDC two or more times in the past three years due to the registrant's employment.

(d) Whether the registrant is currently participating in an educational training program.

(e) Whether the registrant lacks basic literacy or mathematics skills, a high school diploma, or its equivalent, or English language skills.

(f) The registrant's need for supportive services.

.13 Determine if the registrant should be deferred from participation based upon the criteria specified in .3 below.

.14 Reemphasize to nondeferred registrants the services available under GAIN, their responsibilities and consequences for failure or refusal to participate.

.15 Advise the registrants of their right to appeal, conciliate, and grieve.

.16 Determine which component the nondeferred registrant should be assigned to as part of the basic contract (Section 42-772).

.161 The CWD shall determine if the registrant lacks basic literacy or mathematics skills or English language skills by using the appropriate testing instruments provided by SOSS in conjunction with SDE.

.17 Identify the registrant's need for supportive services. (See Section 42-750.)

.171 The CWD shall immediately refer a registrant with a child(ren) under age 12 to the local child care resource and referral agency whether or not the individual currently requires assistance with child care services.

These individuals will be placed on child care waiting lists to ensure future availability should the need arise.

.2 within 20 days after registration, the CWD and the registrant shall enter into a basic contract as provided in Section 42-772 unless deferred.

.3 All of the following registrants shall be deferred from participation until the CWD determines that the situation precluding participation no longer exists:

- (a) A caretaker relative who is enrolled in school for at least 12 units of credit and has a child under age six.
- (b) A person who is so seriously dependent upon alcohol or drugs that work or training is precluded.
- (c) A person who is having an emotional or mental problem that precludes participation.
- (d) A person who is involved in legal difficulties, such as court-mandated appearances, which preclude participation.
- (e) A person who does not have the legal right to work in the United States.
- (f) A person who has a severe family crisis.
- (g) A person who is in good standing in a union which controls referrals and hiring in the occupation.
- (h) A person who is temporarily laid off from a job with a definite call-back date.
- (i) A person who is employed for 15 or more hours per week.
- (j) A person or a family member has a medically verified temporary illness.

.31 The CWD may request verification of the reason for the deferral if necessary.

.32 The CWD shall document the projected length of time of the deferral.

.321 The CWD shall review the deferral situation periodically in accordance with the projected length of time of the deferral, but no less often than every six months.

.33 When the deferral situation no longer exists, the registrant shall enter into a basic contract with the CWD.

Authority: welfare and Institutions Code Sections 10553,
10554, and 10604(b).

Reference: welfare and Institutions Code Sections 10553,
11320.3(e), 11320.5(a) and (b), 11320.6, and
11320.65.

Adopt MPP Section 42-771 to read:

42-771 GAIN PARTICIPANT CONTRACTS

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All GAIN registrants are expected to engage in an active plan which will lead to gainful employment. The methods and time frames for fulfilling this expectation as well as the required supportive services, will be specified in a contract between the registrant and the county.

- .1 The contract shall be written in clear and understandable language and shall have a simple and easy-to-read format.
- .2 The CWD shall utilize the contract format and language developed by SDSS.
- .3 The CWD shall allow the participant three working days after signing the contract, or any amendment to the contract, in which to reconsider and evaluate the proposed terms.
- .4 A participant shall not be placed involuntarily in any other training or education component, as specified in Sections 42-730.3 and 42-730.4, while waiting for assignment to the component agreed to in the contract.
 - .41 The participant shall, however, receive job search services if the training or education component agreed to in the contract is not immediately available.
- .5 The contract shall provide for supportive services, as needed, to participate in the required component. See Section 42-750.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 10604(b).

Reference: Welfare and Institutions Code Sections 10553 and 11320.5.

Adopt MPP Section 42-772 to read:

42-772 GAIN BASIC PARTICIPANT CONTRACT REQUIREMENTS 42-772

Based on the information obtained according to Section 42-761, the CWD shall determine the requirements of the basic contract.

- .1 For any participant who has not been employed within two years prior to GAIN registration, and who does not meet the conditions of .3 below, the basic contract shall provide that the individual participate in job club (Section 42-730.21), for a three-week period.
 - .11 Participation in job club shall be delayed for individuals who meet the conditions in .4 or .5 below, unless they wish to participate concurrently in job club.
- .2 For any participant who has been employed within two years prior to GAIN registration, but who does not meet the conditions of .3 below, the basic contract shall provide that the individual has an option to participate for a three-week period in either job club (Section 42-730.21) or supervised job search (Section 42-730.22).
 - .21 The job search period may be shortened when it is determined that all reasonable job search efforts have been exhausted.
 - .211 This determination shall be subject to supervisory approval.
 - .212 This determination shall include consideration of factors such as job opportunities in the labor market and the individual's recent job search efforts. The CWD shall be permitted to verify the recent job search efforts.
 - .22 Participation in the chosen option shall be delayed for individuals who meet the conditions in .4 or .5 below, unless they wish to participate concurrently in the chosen option.
- .3 For any participant whose AFDC benefits have been discontinued two or more times within three years prior to GAIN registration due to his/her employment, the basic contract shall provide for an immediate referral to an assessment as specified in Section 42-773.

.31 Referral to an assessment shall be delayed for individuals who meet the conditions in .4 or .5 below, unless they wish to be referred concurrently to an assessment.

.4 For any participant who is enrolled and wishes to continue in a self-initiated vocational training program of limited duration or an educational program which is expected to lead to unsubsidized employment, the basic contract shall provide for continued participation in the program until completion.

.41 Participation as a GAIN participant, however, shall be limited to a total of two academic years.

.42 Educational programs which are expected to lead to unsubsidized employment shall be those which will provide the participant with the education required to obtain employment in an occupation which is either:

.421 One that has been identified in the county's labor market needs assessment; or

.422 One for which the participant can demonstrate a need exists.

.43 The basic contract shall provide that the participant shall participate according to .1, .2, or .3 above, whichever is applicable, when the participant completes the program or reaches the two-year limit, or when any of the following occur:

.431 The participant stops participating in the educational or training program.

.432 The participant fails or refuses to regularly attend the educational or training program.

.433 The participant does not maintain satisfactory progress in the educational or training program.

.44 If the CWD determines that the participant had good cause for failing to meet the participation, attendance, or progress standards, based on the criteria specified in Section 42-782, and the school allows the participant to continue in the program, participation according to .43 above shall not be required.

.45 The participant shall provide documentation from the training or educational provider to the county at least quarterly or at midpoint if the program is for less than

three months to verify satisfactory participation, attendance, and progress in the program.

.451 The county shall verify the documentation whenever authenticity is in doubt.

.452 The county shall rely on the training or educational provider's normal standard of attendance or performance to determine if the participant meets the criteria of satisfactory participation, attendance, and progress.

.453 If the participant does not furnish the required documentation, the CWD shall consider that he/she is not meeting the criteria.

.5 For any participant who lacks basic literacy or mathematics skills, a high school diploma or its equivalent, or English language skills, the basic contract shall provide that the individual participate in either remedial education, instruction in order to obtain a general educational development (GED) certificate, or instruction in English as a second language.

.51 The CWD shall refer these participants to appropriate service providers, including the educational programs operated by school districts or county offices of education that have contracted with the Superintendent of Public Instruction to provide services to participants pursuant to Section 33117.5 of the Education Code.

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Section 33117.5 of the Education Code provides that the Superintendent of Public Instruction will identify school districts or county offices of education which can best accommodate GAIN participants for whom vocational education, adult education, or English as a second language is specified in the participant contracts.

.6 For a participant who has an intercounty transfer, and has not completed the terms of a basic contract in the first county, the CWD and the participant shall enter into a new basic contract in the second county.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 10604(b).

Reference: Welfare and Institutions Code Sections 10553 and
11320.5.

Adopt MPP Section 42-773 to read:

42-773 DEVELOPMENT OF AN EMPLOYMENT PLAN

42-773

- .1 The following persons shall cooperate with the CWD, or agency contracting with the CWD, to develop a mutually agreed upon employment plan:
 - .11 Persons identified in Section 42-772.1 or 42-772.2 who have not obtained employment after three weeks of job club or supervised job search.
 - .12 Persons identified in Section 42-772.3.
- .2 In developing the employment plan, the CWD, or agency contracting with the CWD, and the participant shall develop an assessment of the skills and needs of the participant.
 - .21 The assessment shall include at least the following:
 - .211 The participant's work history, including employment skills, knowledge, and ability.
 - .212 The participant's educational history and present educational competency level.
 - .213 The participant's need for supportive services in order to maximize benefits from the employment and training services.
 - .214 The participant's employment goals, and an evaluation of the chances to achieve the goals given the participant's current and potential skills and the local labor market conditions.
 - .215 Identification of a goal to be attained upon completion of the program, the time it will take to achieve the goal, and the resources available to attain the goal.
- .3 The CWD shall be permitted to contract with outside parties, including local education agencies and service delivery areas, to provide this service. The assessment shall be conducted by a person qualified by education or experience, preferably with a Masters Degree in an employment counseling related field, to provide counseling, guidance, assessment, or career planning. Minimum qualifications shall be as specified in either .31 or .32 below:

.31 Graduation from an accredited college.

.311 College study must include at least 15 semester units in counseling preparation, of which at least three units must be in the area of career planning. The remaining 12 units must be in the areas of career planning, guidance principles and techniques, personality development, occupational and industrial information, tests and measurements, or other courses relating to counselor preparation; or

.32 Two years of counseling experience, including at least 50 percent vocational counseling in a variety of occupational fields, and 15 semester units as specified in .311 above.

.4 If the CWD is unable to find or use persons to conduct the assessment who meet the qualifications specified in .3 above, the CWD shall provide the following information in the county plan:

.41 why the qualifications cannot be met;

.42 what the proposed minimum qualification requirements are for the persons who will be performing the assessments; and

.43 how, and over what time period, the persons selected to perform the assessments will acquire the qualifications specified in .32 above.

.5 If the participant and the assessor are unable to reach agreement on developing an employment plan, the CWD shall refer the matter for an independent assessment by an impartial third party with career planning experience, who has been designated by SOSS to perform this function.

.51 This assessment shall be binding upon the CWD and the participant and shall be used to develop the appropriate employment plan for the participant.

.52 When the independent assessment has been completed and the employment plan developed, the participant and the CWD shall amend the contract using the procedures as outlined in Section 42-774.1.

.53 No state hearing shall be granted regarding the development of an employment plan until an independent assessment has been performed.

HANDBOOK

.6 The results of the assessment and employment plan shall become an attachment to the contract and shall be used to amend the basic contract as specified in Section 42-774.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 10604(b).

Reference: Welfare and Institutions Code Sections 10553 and 11320.5.

Adopt MPP Section 42-774 to read:

42-774 PARTICIPANT CONTRACT AMENDMENTS

42-774

Whenever a participant is assigned to a different program component, the contract shall be amended to reflect the assignment and supportive services (Section 42-750) necessary for participation. The CWD and the participant shall sign the amended contract and be bound by its terms.

.1 When the assessment in Section 42-773 has been completed, and the CWD and the participant have agreed upon a goal and the resources to be utilized, the CWD and the participant shall amend the basic contract. The contract amendment shall specify at least the following:

.11 The goal to be attained under the program.

.12 The job services and/or training or education services to be provided.

.121 The job services and training and education services may consist of one or more of the program components described in Sections 42-730.2, .3, and .4.

(a) If the contract amendment includes an initial assignment to a job service component, the amendment shall also contain a provision for a subsequent assignment to an education or training program if the participant remains unemployed after job services.

(b) If participation in more than one program component is specified in this amendment, another amendment is not required when the participant begins each of the specified components.

(c) Assignment to a long term PREP component shall not be part of this initial contract amendment. An assignment to advanced long-term PREP shall be made only when the participant meets the conditions of .31 below. An assignment to basic long term PREP shall be made only when the participant meets the conditions of .4 below.

(d) If the education and training services (as described in Sections 42-730.3 and .4) to be provided under the contract are not immediately available, the participant shall receive job search services until the designated services are available.

.122 The contract amendment shall provide that the participant has 30 days to request a change or reassignment once the training or education has begun. This grace period shall be available only once to each participant.

(a) The CWD shall grant the participant's request for reassignment that is consistent with the assessment, and shall amend the contract accordingly.

.13 The time frames and criteria for successful completion of the program and attainment of the goal.

.131 With respect to training and education programs, the criteria for successful completion shall include regular attendance, satisfactory progress, and completion of the program.

(a) If the CWD has entered into a contract with a service provider for the training or education program, the contract between the provider and the CWD shall contain provisions for reporting the participant's attendance and progress, as specified in Section 42-740(a)(4).

(b) If there is no provider contract with the CWD, the procedures in Section 42-772.45 shall be followed to monitor attendance and progress.

.14 The supportive services to be provided to the participant by the CWD or contracted supportive service provider. (See Section 42-750.)

.2 Any individual who remains unemployed after meeting the criteria established for successful completion of the assigned training or education services agreed to in .1 above, shall be referred to job search services for a period of 30 days. These job search services may include any of the services under Section 42-730.2, depending on the participant's needs. The contract shall be amended to

reflect the assignment to a job search component, and the provision of supportive services.

.21 If the participant remains unemployed at the end of the 90-day job search period, the CWD shall evaluate the participant's situation and reassign him/her to an advanced long-term PREP assignment, as described in Section 42-730.32. The contract shall be amended to reflect the assignment to the PREP component and the provision of supportive services.

.3 Whenever a participant does not meet the criteria specified in .131 above for successful completion of the assigned training or educational services agreed to in .1 or .2 above, he/she shall be reassigned to a basic long-term PREP assignment as described in Section 42-730.32. The contract shall be amended to reflect the assignment to basic long term PREP, and the provision of supportive services.

.4 The CWD shall review a participant's basic or advanced long-term PREP assignment at least every six months to ensure its continued conformity to the contract and its likelihood of leading to unsubsidized employment.

.41 This review shall include the following:

.411 A visit to the participant's worksite; and

.412 A discussion with the participant about his/her assignment and/or job search progress.

.42 If the assignment is clearly inconsistent with the participant contract or cannot lead to unsubsidized employment, the CWD shall perform the following:

.421 If the assignment is a basic PREP assignment, refer the participant for the remainder of the one-year period to another basic PREP assignment which conforms to the contract and has a likelihood of leading to unsubsidized employment.

.422 If the assignment is an advanced PREP assignment, refer the participant for the remainder of the one-year period to another advanced PREP assignment which conforms to the contract and has a likelihood of leading to unsubsidized employment.

(a) If no suitable advanced PREP assignment exists, a review of the participant's

employment plan and any necessary revisions to obtain the goal of unsubsidized employment shall be made.

- .5 At the end of the one-year period of long term PREP, the CWD and the participant shall review the employment plan, and shall make any revisions necessary to obtain the goal of unsubsidized employment. These revisions shall become an amendment to the basic contract.
- .6 For a participant who has an intercounty transfer, and has not completed the terms of an amended contract in the first county, the second county shall determine if a new assessment is needed, and/or to which component the participant shall be assigned, and shall enter into a contract with the participant.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 10604(b).

Reference: Welfare and Institutions Code Sections 10553 and 11320.5.

Adopt MPP Section 42-781 to read:

42-781 CAUSE DETERMINATIONS AND INFORMAL
AND FORMAL CONCILIATIONS

42-781

- .1 Before money management (Section 42-785) or financial sanctions (Section 42-786) are applied, the CWD shall determine if there is good cause and attempt to resolve the problems when an individual who is required to enter into a participant contract or who volunteers to participate in the program fails or refuses to meet any of the following program requirements:
 - .11 Enter into the contract.
 - .12 Participate in a program component that was agreed to in the contract.
 - .13 Accept a job offer or a job referral.
- .2 The CWD shall give the individual an opportunity to explain why he/she refused or failed to meet the program requirements.
 - .21 The CWD shall send the individual an appointment notice to meet and discuss the action. The interview and determination of cause shall occur within ten working days of the discovery of the refusal or failure.
 - .211 The notice shall contain the following information:
 - (a) A statement that the appointment is to determine if the individual had good cause for not meeting the program requirements.
 - (b) A description of the program requirement that the individual failed or refused to meet.
 - (c) A statement that the individual has the right to provide an explanation of the refusal or the failure to meet program requirements.
 - (d) The consequence of failing to keep the appointment.

- (e) A listing of what may constitute good cause for failing or refusing to meet program requirements.
- (f) A statement that the participant has a right to a 30-day formal conciliation period if the CWD finds that the failure or refusal to meet program requirements was without good cause and informal steps to resolve the noncompliance are unsuccessful.
- (g) A proposed conciliation plan.
- (h) The participant's right to offer a counter-proposal towards conciliatory resolution.
- (i) The names and addresses of the local legal services office and welfare rights office, if any, which can assist with the conciliation.
- (j) The consequences of a failure to resolve the dispute during the formal conciliation process.

.22 If the individual contacts the worker prior to the scheduled interview to request rescheduling, the interview shall be rescheduled. The number of reschedulings shall not exceed two. The CWD shall be permitted to conduct telephone interviews to accomplish the cause determinations.

.23 If the individual does not keep the appointment for the determination and has not contacted the CWD, a cause determination shall be made from available information.

.3 If the CWD determines, based on the criteria specified in Section 42-732, that good cause existed for the failure or refusal to meet the program requirements, the county shall, as necessary:

.31 Determine if the problem causing noncompliance has been resolved and the participant can immediately resume participation without further action.

.32 Identify and arrange for additional supportive services that will allow for participation in a program component.

- 4.7 The formal conciliation period shall not exceed 30 calendar days.
- 4.8 The CMD shall use its proposed conciliation plan and/or the participant's counter-proposal to encourage compliance with requirements and resolve the conflict. Mediation shall be used to resolve the conflict. Mediation shall be used to resolve the conflict. Mediation shall be used to resolve the conflict.
- 4.9 The formal conciliation process shall begin immediately following the unsuccessful informal conciliation process. It shall be possible to file a request for mediation at any time during the mediation process. The mediation process shall be conducted in a confidential manner. The mediation process shall be conducted in a confidential manner. The mediation process shall be conducted in a confidential manner.
- 4.10 The CMD shall make all reasonable efforts to conduct informal conciliation within five working days of the initial cause determination. The informal conciliation period shall not exceed ten working days from the initial cause determination. The informal conciliation period shall not exceed ten working days from the initial cause determination. The informal conciliation period shall not exceed ten working days from the initial cause determination.
- 4.11 The interview shall be conducted either in person or by telephone.
- 4.12 The purpose of the interview is to determine if good cause exists for the failure or refusal to meet requirements and to attempt to resolve the conflict so that the individual will meet the requirements.
- 4.13 Informal conciliation shall consist of offering the participant an opportunity for an interview with the supervisor of the CMD staff person who made the cause determination or other designated individual. The CMD shall be permitted to involve other parties relevant to the participant's noncompliance, such as the participant's trainer or supervisor.
- 4.14 If the CMD determines that no good cause existed for the failure or refusal to meet program requirements, the CMD shall conduct informal conciliation.
- 4.15 Amend the participant contract as appropriate.
- 4.16 Determine if temporary deferral is appropriate. (Section 42-761.31.)
- 4.17 Determine with the individual if participation in another component would be appropriate.

- .71 The individual shall be permitted, upon written request, to terminate the formal conciliation process sooner than 30 days when he/she believes that conciliation will not resolve the dispute.
- .72 The CWD shall be permitted to terminate the formal conciliation plan sooner than 30 days if the individual refuses to meet the conditions of the conciliation plan.
- .8 The CWD shall notify the individual in writing of his/her successful completion of the conciliation plan.
- .9 If the formal conciliation process is unsuccessful in resolving the conflict, the following shall occur:
 - .91 If this was the first instance of noncompliance without good cause, the CWD shall follow the procedures in Section 42-785 for money management.
 - .92 If this was a second or subsequent instance of noncompliance, the CWD shall follow the procedures in Section 42-786 for financial sanctions.

The procedures described above for the cause determination and formal conciliation are the same procedures used when a participant files a formal grievance based on Section 5302 of the Unemployment Insurance Code. See Section 42-787.

Authority: welfare and Institutions Code Sections 10553, 10554, and 10604(b).

Reference: welfare and Institutions Code Sections 10553, 11320.6, and 11320.7; Unemployment Insurance Code Section 5302(b).

Adopt MPP Section 42-782 to read:

42-782 GAIN GOOD CAUSE CRITERIA

42-732

- 1 Good cause for a refusal or failure to enter into a participant contract as required, to participate in a program component agreed to in the participant contract, or to accept a job offer or referral shall include any of the following:
 - (a) An assignment, job referral, or job does not meet appropriate work and training criteria, as specified in Section 42-783.
 - (b) The individual is temporarily ill or incapacitated.
 - (c) The individual is required to appear in court or is temporarily incarcerated.
 - (d) The individual is experiencing a family crisis or change of individual or family circumstances, such as any of the following:
 - (1) Death of a spouse, parent, or child;
 - (2) Illness of a spouse, parent, or child which requires the individual's immediate attention.
 - (e) Inclement weather or other act of nature precludes travel to the activity.
 - (f) A breakdown in transportation arrangements occurs with no ready access to alternate transportation.
 - (g) Any other social service not specifically mentioned in the contract is required to allow the individual to meet program requirements.
 - (h) The individual refuses to accept major medical services even if the refusal precludes participation in the program.
 - (i) Licensed or exempt child care is not reasonably available during the individual's hours of training or employment, including commuting time.
 - (1) "Reasonably available" child care includes having at least two choices of child care arrangements which do not require either of the following:

- (A) Adding more than one-half hour one-way to the participant's commuting time; or
- (B) The child to transfer to a different school.
- (2) The choices of day care shall meet either licensing requirements or the criteria specified in Section 42-750.113.
- (j) A breakdown or interruption of child care arrangements occurs.
- (k) Suitable special needs child care is not reasonably available for children with disabilities, chronic illnesses, or other special needs.
- (l) An individual is engaged in employment or training that is consistent with the employability objectives of the program, and prior notification and approval from the CWD has been received.
- (m) At the discretion of the CWD, any substantial and compelling reason other than those specified in this section.
- 2 No sanction shall be applied, and no cause determination is required, for any participant who, during a week, is absent or tardy less than ten percent of the weekly hours required for any component.
- 21 Participants shall not be permitted to accumulate unused hours past the end of each week.

Authority: welfare and Institutions Code sections 10553, 10554, and 10604(b).

Reference: welfare and Institutions Code Sections 10553 and 11320.7.

Adopt MPP Section 42-783 to read:

42-783 CRITERIA FOR DETERMINING APPROPRIATENESS OF GAIN 42-783
WORK AND TRAINING

- .1 For determining good cause, an assignment, job referral, job offer, or job is not considered appropriate work or training, as specified in Section 42-782, if it meets any of the following conditions:
- (a) Discriminates in terms of age, sex, race, color, religion, national or ethnic origin, physical or mental handicap, political affiliation, or marital status.
 - (b) Requires travel between the place of employment or training and one's home that exceeds a total of two hours round trip, or two miles round trip when walking is the only available means of transportation.
 - (1) The limit on travel time and mileage excludes transportation time/mileage to take family members to and from school or care providers.
 - (c) Involves conditions and responsibilities that impair the participant's physical or mental health, or that are not related to the participant's capability to perform the task on a regular basis.
 - (d) Involves conditions that are in violation of applicable health and safety standards.
 - (e) Is not within the scope of the employment plan contained in the contract as specified in Section 42-773.
 - (f) The employment or training program position was created in violation of the criteria specified in Section 42-740(c) or (d).
 - (g) The employment, offer of employment, or work activity does not provide for worker's compensation.
 - (h) Accepting the employment, offer of employment, or work activity would cause the individual to violate the terms of his/her union membership.
 - (i) Accepting the employment, offer of employment, or work activity would interrupt an approved education or job training program, or would prevent the individual from

returning to his/her regular job within a reasonable period of time, with the following exceptions:

- (1) The training program that would be interrupted is a PREP assignment as specified in Section 42-730.32.
- (2) The job offer provides either of the following:
 - (A) Employment and sufficient income to lead to self-support, and the job offer is within the scope of the employment plan.
 - (B) Temporary employment while the individual is waiting for reemployment in his/her regular job.
- (j) The employment or offer of employment exceeds the daily or weekly hours of work customary to the occupation.
- (k) The participant is not receiving the supportive services agreed to in the participant contract entered into under Sections 42-772 or 42-774.
- (l) Ancillary expenses exceed the limit allowed in Section 42-750.4.
- (m) The employment or offer of employment is at a wage level that results in a net loss of income, as specified in Section 42-784, and acceptance of a job offer was not agreed to as part of the employment plan and contract amendment as specified in Sections 42-773 and 42-774.

Authority: welfare and Institutions Code Sections 10553, 10554, and 10604(b).

Reference: welfare and Institutions Code Sections 10553 and 11320.7.

Adopt MPP Section 42-784 to read:

42-784 METHOD OF DETERMINING NET LOSS OF INCOME
FOR GAIN GOOD CAUSE CRITERIA

42-784

- .1 This section shall only apply when the job refusal occurs while the participant is under the terms of a basic contract; that is, before the participant has been assessed and developed an employment plan.
 - .11 The computation of net loss of income would only be a factor when the participant would lose AFDC eligibility due to income if the job were accepted; that is, the requirements of Section 44-207 would not be met if the job were accepted.
- .2 For purposes of determining good cause under GAIN, net loss of income is considered to occur when current income is greater than the post employment income would be if the job offer were accepted.
- .3 Current income for this section means the person's AFDC grant plus net nonexempt income determined under Section 44-100 for the budget month.
- .4 Post employment income shall be determined as follows:
 - .41 Determine what the monthly gross earnings from the job offered would be if the job were accepted.
 - .42 From the gross earnings determined in .41 above, deduct all of the following as if the job had been accepted:
 - .421 Mandatory deductions that would be made from the earnings. These include only the following:
 - (a) Federal, state, and local income taxes;
 - (b) Social Security (FICA);
 - (c) State Disability Insurance;
 - (1) If the employer carries comparable private disability insurance instead of State Disability Insurance, the private disability insurance cost would be deducted;
 - (d) Mandatory union dues;

- (e) Mandatory retirement contributions;
- (f) Court-ordered wage garnishments;
- (g) Any other mandatory legal deduction.

.422 The cost to the participant of health insurance premiums offered by the prospective employer to insure the assistance unit members.

(a) If more than one health insurance plan is offered by the employer, the cost of the least expensive plan which offers coverage comparable to that of CWD employees shall be deducted.

(b) If health insurance is not offered by the employer, deduct the cost of purchasing health insurance coverage for the assistance unit, based on the competitive market rate.

(1) The CWD shall determine the competitive market rate annually by averaging the cost of health insurance that is comparable to health coverage for CWD employees from at least five local insurance carriers who provide health coverage to individuals. If there are less than five local insurance carriers in the county, the CWD shall average the cost from all of the local carriers.

.423 Child care expenses based on the regional market rate.

(a) The regional market rate for child care shall be determined in accordance with Section 42-750.233.

.424 The standard work expense disregard of \$75, as specified in Section 44-113.214, to cover expenses such as transportation, tools, and uniforms.

.425 The cash equivalent value of the difference between the assistance food stamps the recipient is currently eligible for and the nonassistance food stamps the participant would be eligible for if the job were accepted.

(a) The amount of assistance food stamps and the nonassistance food stamps shall be determined according to Section 63-503.3.

.43 To the amount determined in .42 above, add any unearned income that is not exempt under Section 44-111.

.431 For purposes of this subsection, unearned income also includes net nonexempt income from other assistance unit members that is used in computing the aid payment.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 10604(b).

Reference: Welfare and Institutions Code Sections 10553 and 11320.7.

Adopt MPP Section 42-785 to read:

42-785 GAIN MONEY MANAGEMENT

42-785

- .1 Money management shall be applied when all three of the following conditions are met:
 - .11 The individual has failed or refused to meet GAIN program requirements for the first time without good cause; and
 - .12 Informal and formal conciliation efforts under Section 42-781 have failed; and
 - .13 The individual is not a volunteer participant in GAIN.
 - .131 If a volunteer participant engages in actions which would result in money management for a mandatory participant, the individual shall be precluded from participating in the program for a six-month period.
- .2 The CWD shall either arrange for a substitute payee, develop a plan for vendor payments, or do both, for the money management period to ensure that none of the grant is paid directly to the participant's assistance unit.
 - .21 If the CWD chooses to make payments to a substitute payee, the CWD shall name the payee.
 - .211 If the CWD is unable to name a substitute payee, the CWD shall allow the recipient to name someone or shall arrange for vendor payments.
 - .212 If an agency payee is used, the agency must ensure that no conflict of interest exists. (See Section 40-107.21.)
 - .22 The CWD shall be allowed to contract with outside parties to perform the activities associated with money management.
- .3 Money management shall begin on the first of the month following the end of formal conciliation.
 - .31 Before beginning money management, the CWD shall provide at least a ten-day written notice of the intent to begin money management.

.311 If the CWD is unable to provide the ten-day notice before the first of the month following the end of formal conciliation, money management shall begin with the next payment installment. However, the entire calendar month following the end of formal conciliation shall be counted as the first of the three months of money management.

.4 Money management shall occur for a three-month period, with the following exception:

.41 The money management period shall be terminated, and, if administratively feasible, the next aid payment installment following termination shall be paid to the participant, if any of the following occur:

.411 The participant and CWD reach an agreement regarding participation, including a determination that the participant should be exempt (Sections 42-631 through 42-641) or deferred (Section 42-761.3).

.412 The participant performs the activity he/she had previously failed or refused to perform.

.5 If the participant fails to comply with program requirements by the end of the money management period, or violates an agreement to comply made during the management period, financial sanctions shall be imposed according to Section 42-786.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 10604(b).

Reference: Welfare and Institutions Code Sections 10553 and 11320.5.

Adopt MPP Section 42-786 to read:

42-786 GAIN FINANCIAL SANCTIONS

42-786

- .1 Financial sanctions shall be applied when the participant fails or refuses to meet program requirements without good cause, and any of the following occur:
 - .11 The participant fails to cooperate by the end of the money management period.
 - .12 The participant fails or refuses to meet program requirements without good cause for a second or subsequent time, and informal and formal conciliation efforts have failed.
 - .13 The participant violates the agreement to participate made during the money management period.
- .2 The first financial sanction period shall last for three months. Any additional sanction periods shall last for six months.
- .3 During the sanction period, aid shall be discontinued to the individual or assistance unit as specified below:
 - .31 If the individual who failed or refused to participate is:
 - .311 A caretaker relative, other than the principal earner, his/her aid shall be discontinued, and aid shall be continued to the remainder of the family (refer to .5 below and Section 44-310 for protective payments); or
 - .312 One of several eligible children in the assistance unit, aid shall be discontinued for that child and aid shall be continued to the remainder of the family; or
 - .313 The only eligible child in the assistance unit, aid shall be discontinued to the entire family; or
 - .314 The principal earner, aid shall be discontinued to all members of the family whose sole basis of deprivation is the unemployment of that parent.
- .4 The discontinuance from aid shall become effective at the end of the month following the CWD's timely and adequate

notification (see Section 22-022.1), except as specified in .41 below:

.41 If the recipient appeals the sanction through the state hearing process, no sanction shall be imposed until the hearing decision is reached.

.411 If the CWD's action is sustained, the discontinuance shall be effective at the end of the payment month in which the state hearing decision is received.

(a) If the CWD is unable to discontinue aid at the end of such month, aid shall be discontinued at the end of the following payment month.

.42 If the recipient files a formal grievance based on either the procedures established by Section 5302 of the Unemployment Insurance Code or the procedures established by the Board of Supervisors (Section 42-787) to appeal the sanction, and fails to meet GAIN program requirements during the formal grievance process, no aid for the sanctioned individual or sanctioned assistance unit shall be paid pending the outcome of the formal grievance procedure or any subsequent appeal.

.5 The CWD shall arrange for a protective payee in the case of a sanctioned caretaker relative. (See exception at Section 44-310).

.5 The CWD shall restore aid:

.61 Upon expiration of the sanction period if the individual applies for aid, registers with GAIN as required in Section 42-760, and is otherwise eligible; or

.62 If the sanction is rescinded as a result of the outcome of a state hearing or either of the formal grievance procedures (Section 42-787).

.7 Financial sanctions shall not apply to individuals who voluntarily participate in the program.

.71 If a volunteer participant engages in conduct which would result in sanctions for a mandatory participant, the individual shall be precluded from participating in the program for a six-month period.

Authority: Welfare and Institutions Code Sections 10553,
10554, and 10604(b).

Reference: Welfare and Institutions Code Sections 10553,
11308, 11320.6, and 11320.65.

Adopt MPP Section 42-787 to read:

42-787 GAIN STATE HEARING AND FORMAL GRIEVANCE

42-787

Whenever a participant believes that any program requirement or assignment is in violation of the contract or is inconsistent with the program, the CWD shall inform him/her of the right either to request a state hearing, to file a formal grievance based on the procedures established in Section 5302 of the Unemployment Insurance Code, or to file a formal grievance based on the procedures established by the county board of supervisors. However, neither of the formal grievance processes shall be used when a participant is dissatisfied with the results of an assessment made according to Sections 42-773 or 42-774.2.

.1 State Hearing

.11 Procedures for a state hearing are specified in MPP Division 22.

.2 Formal Grievance (Section 5302 of the Unemployment Insurance Code)

.21 The procedures established for a formal grievance by the Unemployment Insurance Code are the same as those required for a cause determination and formal conciliation as specified in Section 42-781.

.3 Formal Grievance (County Board of Supervisors)

.31 The procedures for a formal grievance established by the county board of supervisors shall be specified in the county plan. Refer to Section 42-720.34.

.4 The participant shall be permitted to request a state hearing to appeal the outcome of a formal grievance.

.5 The participant shall not be permitted to use either of the formal grievance procedures referred to in .2 or .3 above to appeal the outcome of a state hearing or the requirement to sign a basic contract.

.6 The CWD shall address any complaints of discrimination based on race, color, national origin, religion, political affiliation, marital status, sex, age, or handicap which may arise through an applicant's/recipient's registration for or participation in GAIN in accordance with the provisions of MPP Division 21 - Nondiscrimination in State and Federally Assisted Programs.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 10604(b).
Reference: Welfare and Institutions Code Sections 10553, 11320.5, and 11320.65.

Amend Sections 44-101.525 to read:

44-101 INCOME DEFINITIONS (Continued)

44-101

.5 Earned Income (Continued)

.52 Earned income also includes:

.525 Training incentive payments and work allowances under ongoing manpower programs, other than WIN Demo, GAIN and JTPA.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 10604(b).

Reference: Welfare and Institutions Code Sections 10553 and 11320.3.

Amend MPP Sections 44-103.116 and .117 to read:

44-103 EXPLORATION OF INCOME POTENTIALS AND INCOME
VERIFICATION

44-103

.1 County Responsibility

.11 The county is responsible for: (Continued)

- .116 Determining good cause when an apparently eligible applicant or recipient, who is required to register for WIN in accordance with Chapter 42-600 Section 42-625, does not meet all conditions of eligibility for UIB. Circumstances that may constitute good cause shall be evaluated using the criteria contained in Handbook Subsection 44-103.116(b) below.
- .117 Discontinuing or denying aid to an individual, as specified below, if: 1) the applicant or recipient does not apply for or accept any UIB to which EDD determines he/she may be eligible; or 2) the applicant or recipient, when required to register for WIN and who is not otherwise WIN exempt in accordance with Section 42-625, did not, without good cause, meet all conditions of eligibility for UIB (see Section 44-103.242 for the definition of "meet all conditions of eligibility for UIB"). (Continued)

Authority: Welfare and Institutions Code Sections 10553, 10554, and 10604(b).

Reference: Welfare and Institutions Code Sections 10553 and 11320.1.

Amend Section 44-103.242 to read:

44-103 EXPLORATION OF INCOME POTENTIALS AND INCOME 44-103
 VERIFICATION (Continued)

.2 Applicant and Recipient Responsibility (Continued)

.24 Applicants and Recipients who are apparently eligible
for UIB: (Continued)

.242 when required to register ~~for~~ with in accordance
with Section 42-625, shall meet all conditions of
eligibility for UIB, unless the county determines
that the individual had good cause (see Section
44-103.116). (Continued)

Authority: welfare and Institutions Code Sections 10553,
 10554, and 10604(b).

Reference: welfare and Institutions Code Sections 10553 and
 11320.1.

Amend Section 44-111.3(f) to read:

44-111 PAYMENTS EXCLUDED OR EXEMPT FROM CONSIDERATION 44-111
 AS INCOME (Continued)

•3 Exemption of Payments from Public Sources (Continued)

- f. The incentive payments under WIN Demo and the
 reimbursement for training related expenses made by WIN
 Demo or GAIN are exempt from consideration as income.

Authority: Welfare and Institutions Code Sections 10553,
 10554, and 10604(b).

Reference: welfare and Institutions Code Sections 10553 and
 11320.1.

Amend MPP Sections 44-206.1(d), (g), (m), and .23 to read:

44-206 PERSONS WHO MUST BE EXCLUDED FROM THE
ASSISTANCE UNIT (AU) (Continued)

44-206

.1 The following persons must be excluded from the assistance unit (even if it would be appropriate to include them under Sections 44-205.4 or .5): (Continued)

(d) A person who is being sanctioned for any of the following reasons:

.(1) A parent, pregnant woman, or needy caretaker relative who refuses to assign support rights.

(2) A parent, pregnant woman, or needy caretaker relative who refuses to cooperate in the identification and location of the absent parent, establishment of paternity, and enforcement of the support obligation as determined in Section 43-107.1. (Cooperation Requirements)

(3) A parent, pregnant woman, or needy caretaker relative who refuses to apply for or accept unconditionally available income. (Section 44-103.22)

(4) A caretaker relative or a registered child who fails to meet GAIN program requirements without good cause (see Section 42-786).

(e) (Continued)

(f) (Continued)

(g) Any relative who is required to register and who is not registered for with demo or employment services in accordance with Section 42-625.

(h) (Continued)

(i) (Continued)

(j) (Continued)

(k) (Continued)

(l) (Continued)

- (m) Any applicant or recipient required to register for WIN in accordance with Section 42-625 without good cause meet all conditions of eligibility for UIB. (See Section 44-103.117).

44-206 PERSONS WHO MUST BE EXCLUDED FROM THE
ASSISTANCE UNIT (AU) (Continued)

44-206

- .2 The entire family is ineligible for aid payments when:
(Continued).
- .23 An AFDC principal earner has been sanctioned by WIN Demo
or GAIN. (See Section 42-691 or 42-786 as appropriate.)

Authority: Welfare and Institutions Code Sections 10553,
10554, and 10604(b).

Reference: Welfare and Institutions Code Sections 10553,
11308, and 11320.6.

Amend MPP Section 44-301 to read:

44-301 MONEY PAYMENT PRINCIPLE

44-301

Each individual or family has the right to manage his/her own affairs; to decide what use of his/her money, including the aid payment, will best serve his/her interests; and to make his/her purchases through the normal channels of exchange, to enjoy the same rights and to discharge his/her responsibilities in the same manner as other members of the community.

Aid payments shall be made in conformity with the money payment principle except when a problem in money management exists (see Section 44-307); when authorized sanctions are applied wherein a person fails without good cause to cooperate in an established the WIN Demo or GAIN Program (See Section 42-591 or 42-786); when protective payments are made in noncooperation child support cases (see Sections 43-106 and 43-107.1); when money management is required under GAIN (see Section 42-785); or when directed by the Services System to make payments to a protective payee or to a vendor or vendors (see Section 44-307).

Aid payments are for the benefit of the recipient only and do not constitute income to any other person.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 10604(b).

Reference: Welfare and Institutions Code Sections 10553 and 11320.6.

Amend MPP Section 44-303.33 to read:

44-303 AID PAYMENTS - DEFINED (Continued)

44-303

.3 (Continued)

- .33 In WIN Demo or GAIN sanction cases (see Section 42-691. or Section 42-786 as appropriate).

Authority: Welfare and Institutions Code Sections 10553, 10554, and 10604(b).

Reference: Welfare and Institutions Code Sections 10553, 11308, and 11320.6.

Amend MPP Section 44-310 to read:

44-310 EXCEPTION TO PROTECTIVE PAYMENTS REQUIREMENT 44-310
 UNDER SECTIONS 42-691.5233, 42-786.5 AND 44-309

- .1 Protective payments under Sections 42-691.5233, 42-786.5 and 44-309 are not required if, after making all reasonable efforts (see .2 below), the county is unable to locate an appropriate individual to whom protective payments can be made. In this case, the county shall continue to make payments on behalf of the remaining members of the assistance unit to the sanctioned caretaker.
- .2 At a minimum, reasonable efforts on the part of the county to locate a protective payee shall include the following actions:
 - .21 Inform the sanctioned individual that the county is required to make protective payments if it is able to locate an appropriate protective payee.
 - .22 Ask the sanctioned individual to name a person who can act as the protective payee, and explain the selection criteria of Section 44-309.13 to the sanctioned individual.

Authority: welfare and Institutions Code Sections 10553, 10554, and 10604(b).

Reference: welfare and Institutions Code Sections 10553, 11308, and 11320.6.

Amend MPP Section 44-350.14 to read:

44-350 OVERPAYMENTS -- GENERAL

44-350

.1 General (Continued)

- .14 The county shall take all reasonable steps necessary to promptly correct and collect any overpayments that are known to the county. This includes recovery of overpayments due to either applicant/recipient and/or county administrative errors. See exception at 42-730.324(b) regarding forgiveness of overpayments when a recipient stops participating in a GAIN preemployment work assignment before an adjustment to required work hours has been made.

Authority: welfare and Institutions Code Sections 10553, 10554, and 10604(b).

Reference: welfare and Institutions Code Sections 10553 and 11320.55.

FACE SHEET

(OAL-4)

(See Instructions on Reverse)

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

ORD #0785-41

8512194

Dec 18 12 53 PM '85

ENDORSED
APPROVED FOR FILING

JAN 22 1986

Office of Administrative Law
LEAVE BLANK

1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

State Department of Social Services
(AGENCY)

BY: Linda S. McKelton
(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

FILED
In the office of the Secretary of State
of the State of California

JAN 22 1986
At 4:24 o'clock P.M.
MARCH FONG EU, Secretary of State
By Margaret Hershberger
Deputy Secretary of State

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION

Diane Moritz Glazer, Regulations Analyst

TELEPHONE

445-0313

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

Title: SECTIONS AMENDED
MPP 30-753; 30-766.211
SECTIONS ADOPTED
MPP 30-766.1; 30-766.3, .4
SECTIONS REPEALED
MPP 30-766.1; 30-766.212, .213, .22, .23

3. TYPE OF ORDER (CHECK ONE)

- ☐ Regular ☐ Emergency (Attach Finding of Emergency) ☒ Certificate of Compliance
- Other Regulatory Actions:
- ☐ Procedural and Organizational Change ☐ Editorial Correction ☐ Authority and Reference Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

☒ No ☐ Yes, if yes give date of previous filing _____

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

☒ No ☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES, CHECK THE APPROPRIATE BOX OR BOXES.

- ☐ State Fire Marshal (Attach Approval) ☐ Building Standards Comm. (Attach Approval) ☐ Fair Political Practices Comm. (Include FPPC Approval Stamp) ☐ Department of Finance (Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

August 30, 1985

b. DATE OF ADOPTION OF REGULATION(S)

December 18, 1985

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

November 29 thru December 16, 1985

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

☒ No ☐ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS ON REVERSE)

- a. ☒ Effective 30th day after filing with the Secretary of State.
- b. ☐ Effective on _____ as required by statutes: (list) _____
- c. ☐ Effective on _____ (Designate effective date **earlier than** 30 days after filing with the Secretary of State pursuant to Government Code Section 11346.2(d).)
- ☐ Request Attached
- d. ☐ Effective on _____ (Designate effective date **later than** 30 days after filing with the Secretary of State.)

INSTRUCTIONS FOR STD 400
(OAL-4)

A completed Face Sheet for Filing Regulations With the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer authorized to submit regulations.

Part 1. Provide agency name and signature of the agency officer. Also provide the name and telephone number of the person who can answer questions regarding this regulatory filing.

Part 2. Provide the Administrative Code Title in which the regulation will appear and list each section number to be amended, adopted, or repealed.

(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

Part 4. Check appropriate box.

Part 5. Regulatory activity resulting from the agency's review of existing regulations should be submitted in a separate filing. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 6. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

- a. Fire and panic safety regulations (Gov. Code Sec. 11342.3).
- b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346.5(a) (6), 11349.1 and S.A.M. Sections 6050-6057.

Part 7. a. Provide the publication date of the Notice Register in which the initial notice regarding these regulations appeared.

b. Provide the date on which the regulatory agency adopted the regulation(s).

c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

Filing Requirements

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required.
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

CERTIFICATE OF COMPLIANCE - Section 11346.1(e), Government Code

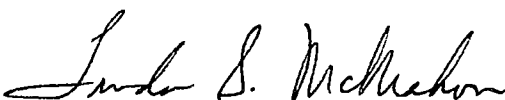
The Department of Social Services hereby certifies that it has complied with the provisions of Sections 11346.4 through 11346.8 inclusive of the Government Code, within 120 days of the effective date of the following emergency regulations which were filed with the Secretary of State on August 23, 1985, and which became effective on August 23, 1985.

Manual of Policy and Procedures, Division 30, Chapter 700, Sections:

<u>Amended</u>	<u>Adopted</u>	<u>Repealed</u>
30-753	30-766.1	30-766.1
30-766.211	30-766.3	30-766.212
	30-766.4	30-766.213
		30-766.22
		30-766.23

These regulations were presented at public hearing on October 15, 16, and 17, 1985. As a result of the public hearing the following sections have been changed.

<u>Amended</u>	<u>Adopted</u>	<u>Repealed</u>
30-753	30-766.1	30-766.1
30-766.211	30-766.3	30-766.212
	30-766.4	30-766.213
		30-766.22
		30-766.23


 LINDA S. McMAHON
 Director

12/18/85
 Date

Amend MPP Section 30-753 to read:

30-753 SPECIAL DEFINITIONS

30-753

- (a) Allocation means federal, state, and county monies which are identified for a county by the Department for the purchase of services in the IHSS program.
- (b) Base Allocation means all federal, state, and county monies identified for counties by the Department for the purchase of services in the IHSS program, exclusive of any provider COLA allocation, but including recipient COLA.
- (ac) Base Rate means the amount of payment per unit of work before any premium is applied for overtime or related extraordinary payments.
- (bd) County Plan means the annual plan submitted to the State Department of Social Services specifying the method of IHSS delivery to meet program objectives, conditions, and fiscal limitations. This plan shall be amended if the county or state determines expenditure levels or trends require program modification.
- (ce) CRT or Cathode Ray Tube means a device commonly referred to as a terminal which is used to enter data into the IHSS payrolling system.
- (cf) CRT County means a county in which one or more CRTs have been located allowing the county to enter its data directly into the payrolling system.
- (cg) Deeming means procedures by which the income and resources of certain relatives, living in the same household as the recipient, are determined to be available to the recipient for the purposes of establishing eligibility and share of cost.
- (ch) Direct advance payment means a payment to be used for the purchase of authorized IHSS which is sent directly to the recipient in advance of the service actually being provided.
- (ci) Employee means the providers of IHSS under the individual delivery method as defined in Section 30-767.13.
- (cj) Employer means the recipient of IHSS when such services are purchased under the individual delivery method as defined in Section 30-767.13.

(+k) Equity Value means a resource's current market value after subtracting the value of any liens or encumbrances against the resources which are held by someone other than the recipient or his/her spouse.

(j1) Essential Services means:

(1) Nonmedical personal services.

(2) Paramedical services.

(3) Protective supervision.

(4) Snow removal, when appropriate.

(5) Meal preparation.

(6) Meal cleanup when assistance with both meal preparation and the consumption of food is required.

(m) Gatekeeper Client means a person eligible for, but not placed in a skilled or intermediate care facility as a result of preadmission screening.

(kn) Hours Worked means the time during which the provider is subject to the control of the recipient, and includes all the time the provider is required or permitted to work, exclusive of time spent by the provider traveling to and from work.

(+o) Housemate means a person who shares a living unit with a recipient. An able and available spouse or a live-in provider is not considered a housemate.

(mp) Landlord/Tenant Living Arrangement means a shared living arrangement considered to exist when one housemate, the landlord, allows another, the tenant, to share housing facilities in return for a monetary or in-kind payment for the purpose of augmenting the landlord's income. A landlord/tenant arrangement is not considered to exist between a recipient and his/her live-in provider. Where housemates share living quarters for the purpose of sharing mortgage, rental, and other expenses, a landlord/tenant relationship does not exist, though one housemate may customarily collect the payment(s) of the other housemate(s) in order to pay mortgage/rental payments in a lump sum.

(ng) Licensed Health Care Professional means a person who is a physician, chiropractor, podiatrist or dentist as defined and authorized to practice in this state in accordance with the California Business and Professions Code.

(er) Live-In Provider means a provider who is not related to the recipient and who lives in the recipient's home expressly for the purpose of providing IHSS-funded services.

(es) Minor means any person under the age of eighteen.

(et) Net Nonexempt Income means income remaining after allowing all applicable income disregards and exemptions.

(eu) Nonessential Services means:

(1) All domestic services.

(2) Heavy cleaning.

(3) Related services except meal preparation and except meal cleanup where assistance with both meal preparation and consumption of food is required.

(4) Transportation services.

(5) Teaching and demonstration services.

(6) Yard hazard abatement, with the exception of snow removal.

(sy) Out-of-Home Care Facility means a housing unit other than the recipient's own home, as defined in (tw) below. Medical out-of-home care facilities include acute care hospitals, skilled nursing facilities, and intermediate care facilities. Nonmedical out-of-home care facilities include community care facilities and homes of relatives which are exempt from licensure, as specified in Section 46-325.5, where recipients are certified to receive board and care payment level from SSP.

(tw) Own Home means the place in which an individual chooses to reside. An individual's "own home" does not include an acute care hospital, skilled nursing facility, intermediate care facility, community care facility, or a board and care facility. A person receiving an SSI/SSP payment for a nonmedical out-of-home living arrangement is not considered to be living in his/her own home.

(ux) Paper County means a county which sends its date in paper document form for entry into the payrolling system to the IHSS payrolling contractor.

(vy) Payment Period means the time period for which wages are paid. There are two payment periods per month corresponding

to the first of the month through the fifteenth of the month and the sixteenth of the month through the end of the month.

(wz) Payrolling System means a service contracted by the state with a vendor to calculate paychecks to individual providers of IHSS; to withhold the appropriate employee taxes from the provider's wages; to calculate the employer's taxes; and to prepare and file the appropriate tax return.

(xaa) Personal Attendant means a provider who is employed by the recipient and, as defined by 29 CFR 552.6, who spends at least eighty percent of his/her time in the recipient's employ performing the following services:

- (1) Preparation of meals, as provided in Section 30-757.131.
- (2) Meal clean-up, as provided in Section 30-757.132.
- (3) Planning of menus, as provided in Section 30-757.133.
- (4) Consumption of food, as provided in Section 30-757.14(c).
- (5) Routine bed baths, as provided in Section 30-757.14(d).
- (6) Bathing, oral hygiene and grooming, as provided in Section 30-757.14(e).
- (7) Dressing, as provided in Section 30-757.14(f).
- (8) Protective supervision, as provided in Section 30-757.17.

(bb) Preadmission Screening means personal assessment of an applicant for placement in a skilled or intermediate care facility, prior to admission, to determine the individual's ability to remain in the community with the support of community-based services.

(cc) Program Reductions mean service restrictions implemented by a county with prior SDSS approval in the priority order specified in Welfare and Institutions Code Section 12301(1) through (5) and MPP 30-766.211 (a through e reductions).

(dd) Provider Cost-of-Living Adjustment (COLA) means all federal state and county monies identified for counties by SDSS for the payment of wage and/or benefit increases for service providers in the IHSS program.

(yee) Recipient means a person receiving IHSS, including applicants for IHSS when clearly implied by the context of the regulations.

(zff) Severely Impaired Individual means a recipient with a total assessed need, as specified in Section 30-763.26, for 20 hours or more per week of service in one or more of the following areas:

(1) Any nonmedical personal service listed in Section 30-757.14.

(2) Preparation of meals and meal cleanup when assistance with consumption of food is required.

(3) Paramedical services.

(aagg) Shared Living Arrangement means a situation in which one or more recipients reside in the same living unit with one or more persons. A shared living arrangement does not exist if a recipient is residing only with his/her able and available spouse.

(eehh) Share of cost means an individual's net non-exempt income in excess of the applicable SSI/SSP benefit level which must be paid toward the cost of IHSS authorized by the county.

(bbii) Spouse means a member of a married couple or a person considered to be a member of a married couple for SSI/SSP purposes.

(edjj) SSI/SSP means the Supplemental Security Income and State Supplementary Program administered by the Social Security Administration of the United States Department of Health and Human Services in California.

(eekk) Substantial Gainful Activity means work activity that is considered to be substantial gainful activity under the applicable regulations of the Social Security Administration, 20 CFR 416.932 through 416.934. Substantial work activity involves the performance of significant physical or mental duties, or a combination of both, productive in nature. Gainful work activity is activity for remuneration or profit, or intended for profit, whether or not profit is realized, to the individual performing it or to the persons, if any, for whom it is performed, or of a nature generally performed for remuneration or profit.

(ffll) Substitute Payee means an individual who acts as an agent for the recipient.

(ggmm) Turnaround Timesheet means a three-part document issued by the state consisting of the paycheck, the statement of earnings, and the timesheet to be submitted for the next pay period.

Authority: Welfare and Institutions Code Sections 10553 and 12301.1.

Reference: Welfare and Institutions Code Sections 10554, 12301 and 12304.

- REPEAL
- REPEAL
- 1 County Plan requirements shall include the following:
 - 11 Each county welfare department shall develop and submit to DSS a county plan which specifies the means by which IHSS will be provided in order to meet the objectives and conditions of the program and applicable portions of the budget act.
 - 111 The plan shall follow prescribed DSS format.
 - 112 Should allocated funds be insufficient to meet projected service needs of the county, the county shall indicate the following in its plan:
 - (a) Whether it intends to reduce the program or to provide additional county funding.
 - (b) If the program is to be reduced, the county's intended reductions.
 - (c) Counties shall have the authority to utilize administrative actions to reduce their rate of expenditure.
 - (1) Such actions shall include but not be limited to the following:
 - (A) Change in mode of service delivery.
 - (B) Reduction in hourly rate of payment.
 - 113 The county shall have the authority to amend its plan if the county deems it necessary.
 - (a) County amendments shall be submitted to DSS at least 15 days prior to implementation of the proposed program revisions.
 - 114 County plans and amendments shall be effective as submitted, except that the department shall take appropriate action to assure compliance if a plan or amendment is determined to be deficient.

Authority: Welfare and Institutions Code Section 10553.

Reference: Welfare and Institutions Code Sections 10553 and
12301.

Adopt MPP Section 30-766.1 to read:

30-766 PROGRAM CONTROLS (Continued)

30-766

.1 Each county welfare department shall develop and submit a county plan to SDSS no later than 30 days following receipt of its allocation, which specifies the means by which IHSS will be provided in order to meet the objectives and conditions of the program within its allocation.

.11 The plan shall be submitted on a SDSS form and shall include at least:

.111 Projected caseload, hours paid, and costs per month by mode and demographic information required by Welfare and Institutions Code Section 12301.

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(a) Information on caseload, including the number of persons who receive 20 or more hours of personal services, between 18 and 20 hours of personal services, the number of persons receiving protective supervision, other special characteristics of the population and the number of cases per age of recipient.

(b) Expected impact on the In-Home Supportive Services program from any new or expanded programs or changed health characteristics of the population, including, but not limited to the impact of all of the following:

(1) The new linkages program authorized by Chapter 1637 of the Statutes of 1984;

(2) Multipurpose senior service centers;

(3) Adult day health care centers;

(4) Diagnostically related groups and early hospital discharges;

(5) Preadmission screening;

(6) Reported adult abuse.

(c) The county shall also report which methods of outreach are being utilized by the county regarding the availability of services under this article.

.12 County plans and amendments shall be effective upon submission except as in .17 below.

.13 In the event that funds are available for reallocation, special consideration shall be given to those counties which submit their county plans by the due date.

.131 SDSS shall be permitted to reallocate funds from counties which are late based on SDSS's estimate for those counties.

.14 Each county shall monitor its expenditures monthly. Upon discovery by either SDSS or the county that anticipated expenditures will exceed the amount of the county's base allocation, the county shall immediately submit to SDSS for approval an amended plan including the information specified in .15 below.

.15 If a county's IHSS program base allocation is insufficient to meet projected service needs, the county shall specify within its plan:

.151 Whether it intends to implement program reductions; or

.152 Whether it intends to provide additional county funding; or

.153 Whether it chooses to utilize administrative actions to reduce the rate of expenditure.

(a) Administrative actions include, but are not limited to the following:

(1) Change in mode of service delivery;

(2) Reduction in hourly rate of payment provided that such reduction does not cause the hourly rate to decrease below an amount equal to the current minimum wage plus the cumulative mandatory provider COLAs, beginning with FY 1983/84.

- .16 If program reductions are necessary, the county shall submit its reduction plan to SDSS for approval at least 30 days prior to mailing the reduction Notices of Action. The reduction plan shall include:
 - .161 The services identified for reduction;
 - .162 The number of severely impaired and nonseverely impaired recipients that will be notified;
 - .163 The resulting expenditure reduction;
 - .164 The proposed Notices of Action which will be used to notify IHSS recipients of the reductions.
- .17 Counties shall not implement program reductions without SDSS approval of the reduction plan.
- .18 Counties shall not be permitted to reduce services to a level which would create a projected county surplus. Counties that can remain within their base allocation shall not implement reductions.

Authority: Welfare and Institutions Code Sections 10553 and 12301.1.

Reference: Welfare and Institutions Code Sections 12300.2 and 12301.

Amend MPP Section 30-766.211 and repeal MPP Sections 30-766.212, .213, .22, and .23 to read:

30-766 PROGRAM CONTROLS (Continued)

30-766

.2 Program reduction requirements shall include the following:
(Continued)

.21 To the extent feasible, all county reductions shall be made evenly throughout the year.

.211 To the extent necessary, and subject to the provisions of .212 and .213 below, counties shall implement one or more of the priorities specified in (a) through (e) below in the priority order listed.

(a) Reduction of the frequency with which one or more nonessential services provided.

(b) Elimination of one or more of the nonessential service categories.

(c) Termination and/or denial of eligibility to persons receiving only domestic services.

(d) Termination and/or denial of eligibility to persons who, in the absence of services, would not require immediate placement in a medical out-of-home care facility.

(e) Equal dollar reduction in costs for each IHSS case.

.212 It shall not be necessary for the county to exhaust all items within one priority before progressing to the next priority.

.213 The county shall have the authority to choose to implement a priority for only a portion of the caseload.

(a) Under such circumstances, the county shall develop standards by which the reduction determination is made.

.22 To the extent budgetary constraints allow, authorization reductions should be avoided which would require immediate placement of a recipient in an out-of-home

care facility. However, in no event shall authorization reductions be implemented which will require immediate recipient placement in a medical out-of-home care facility.

- *23 Recipient authorizations shall not be reduced if such reduction would require an employed recipient of IHSS to become unemployed.

Authority: Welfare and Institutions Code Sections 10553 and 12301.1.

Reference: Welfare and Institutions Code Section 12301.

Adopt MPP Section 30-766.3 and .4 to read:

30-766 PROGRAM CONTROLS (Continued)

30-766

.3 Program reductions shall be implemented as follows:

.31 When implementing reductions under .211(a), (b), and (c) above, services shall not be reduced if such reductions would:

.311 require an employed recipient to become unemployed; or,

.312 require, as a direct result of the program reduction(s), placement of the recipient in an out-of-home care facility; or,

.313 create a life threatening situation by presenting a substantial threat to the recipient's health or safety.

.32 If program reductions as defined in .211 and implemented pursuant to .31 above have been exhausted and are insufficient to remain within the allocation, the county shall reevaluate each recipient who qualified for exemptions described in .312 above. In reevaluating these recipients, the county shall reduce services to those recipients who would not require placement in a medical out-of-home care facility in the absence of such services, as well as the exemptions specified in .311 and .313 above. The county shall implement program reductions, specific to the need for medical out-of-home care accordingly for those recipients who do not meet the criteria set forth below.

.321 No recipient shall be considered at risk of placement in a medical out-of-home care facility unless she/he is the following:

(a) a client with a documented need for paramedical services; or,

(b) a gatekeeper client; or,

(c) a Multipurpose Senior Services Program client; or,

(d) a client currently receiving Medi-Cal/Medicare funded Home Health Care; or.

(e) a client of Adult Day Health Care; or

(f) A recipient for whom a physician certifies that the lack of services would directly result in the recipient's placement into a medical out-of-home care facility.

.4 When implementing program reductions, pursuant to .211 above, a needs assessment shall be completed and documented in the case file for each potentially affected recipient.

.41 Face-to-face contact shall not be required when completing the revised program reduction needs assessment form as long as the provisions of 30-761.13 have been met.

.42 The reassessment due date shall not change as a result of the revised program reduction assessment form.

.43 A record shall be kept for each recipient of the hours reduced for each task and the reason for exempting each task not reduced in accordance with the county's approved reduction plan.

.44 Authorizations reduced as a result of program reductions shall be restored to the appropriate level on the following July 1.

Authority: Welfare and Institutions Code Sections 10553 and 12301.1.

Reference: Welfare and Institutions Code Sections 10851, 12301, 12301.1, 12302 and 12306.

FACE SHEET
(OAL-4)

(See Instructions on Reverse)

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

ORD #1285-59

2601161

REC-1140
JAN 16 4 47 PM '86

OFFICE OF
ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING

JAN 23 1986

Office of Administrative Law

1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

State Department of Social Services

(AGENCY)

BY:

(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

FILED
In the office of the Secretary of State
of the State of California

JAN 23 1986

At 4:37 o'clock P.M.

MARCH FONG EU, Secretary of State

By: *Maureen Hershberger*
Deputy Secretary of State

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION
Jerry Demorest, Regulations Analyst

TELEPHONE
323-0881

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

Title: SECTIONS AMENDED MPP Sections 42-720.134; 42-800; 42-801; 42-802; 42-803; 42-804;
42-805; 42-806; 42-807; 42-808; 42-809; 42-810; 42-811; 42-812; and 69-206.121
SECTIONS ADOPTED

SECTIONS REPEALED

3. TYPE OF ORDER (CHECK ONE)

- ☐ Regular ☒ Emergency (Attach Finding of Emergency) ☐ Certificate of Compliance
- Other Regulatory Actions:
- ☐ Procedural and Organizational Change ☐ Editorial Correction ☐ Authority and Reference Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

- ☒ No ☐ Yes, if yes give date of previous filing _____

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

- ☒ No ☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES, CHECK THE APPROPRIATE BOX OR BOXES.

- ☐ State Fire Marshal (Attach Approval) ☐ Building Standards Comm. (Attach Approval) ☐ Fair Political Practices Comm. (Include FPPC Approval Stamp) ☒ Department of Finance (Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

January 31, 1986

b. DATE OF ADOPTION OF REGULATION(S)

January 16, 1986

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

- ☐ No ☒ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS ON REVERSE)

- a. ☐ Effective 30th day after filing with the Secretary of State.
- b. ☒ Effective on January 23, 1986 as required by statutes: (list) Chapter 1025, Statutes 1985, Sec. 13
- c. ☐ Effective on _____ (Designate effective date **earlier than** 30 days after filing with the Secretary of State pursuant to Government Code Section 11346.2(d).)
- ☐ Request Attached
- d. ☐ Effective on _____ (Designate effective date **later than** 30 days after filing with the Secretary of State.)

INSTRUCTIONS FOR STD 400
(OAL-4)

A completed Face Sheet for Filing Regulations With the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer authorized to submit regulations.

Part 1. Provide agency name and signature of the agency officer. Also provide the name and telephone number of the person who can answer questions regarding this regulatory filing.

Part 2. Provide the Administrative Code Title in which the regulation will appear and list each section number to be amended, adopted, or repealed.

(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

Part 4. Check appropriate box.

Part 5. Regulatory activity resulting from the agency's review of existing regulations should be submitted in a separate filing. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 6. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

- a. Fire and panic safety regulations (Gov. Code Sec. 11342.3).
- b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346.5(a) (6), 11349.1 and S.A.M. Sections 6050-6057.

Part 7. a. Provide the publication date of the Notice Register in which the initial notice regarding these regulations appeared.

b. Provide the date on which the regulatory agency adopted the regulation(s).

c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

Filing Requirements

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required.
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

(1) Adopt MPP Section 42-720.134 to read: -

42-720 THE GAIN COUNTY PLAN (Continued)

42-720

.1 Plan Approach (Continued)

.13 (Continued)

.134 If a county elects to serve RCA program applicants and recipients, MPP Chapter 42-800 provisions shall apply to these individuals.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Sections 10553 and 11320.2(e).

(2) Adopt MPP Section 42-800 to read:

42-800 GAIN REQUIREMENTS FOR RCA PARTICIPANTS: INTRODUCTION 42-800

.1 RCA eligibles who are residing in areas in which the county plan provides for their participation in the GAIN program, and who have more than six months of time-eligibility remaining as determined under Section 69-206.212, shall be required, as a condition of eligibility, to register and participate in GAIN.

.2 All Chapter 42-700 regulations shall apply for purposes of Refugee Cash Assistance GAIN participants, unless superseded by regulations contained in Sections 42-800 through 42-812.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Sections 10553, 11320(f)(5), 11320.2(e), and 11320.5(a); and 8 USC Section 1522(e).

(3) Adopt MPP Section 42-801 to read:

42-801 GAIN REGISTRATION FOR RCA GAIN PARTICIPANTS 42-801

- .1 The RCA eligible who meets the criteria in Sections 69-206.12 and 42-800.1 and who is not exempt under Section 69-208.4, shall register, as a condition of eligibility, with the CWD for GAIN.
- .2 If the individual fails or refuses to register, the procedures in Section 69-208.73 shall apply.
- .3 The CWD shall follow the procedures in Sections 42-760 and 42-761 except that RCA GAIN participants are not eligible for supportive services unless funded through non-GAIN sources.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Sections 10553, 11320.2(e), and 11320.5(a); and 8 USC Section 1522(e).

(4) Adopt MPP Section 42-802 to read:

42-802 JOB, TRAINING, AND EDUCATION SERVICES FOR RCA 42-802
GAIN PARTICIPANTS

.1 Education Services

.11 RCA GAIN participants may participate in college and community college educational programs provided it does not constitute full-time attendance as defined in Section 69-206.5 or is exempt under Section 69-206.52 or .53.

.2 PREP Assignment

.21 For purposes of determining the number of hours a person participates in a PREP assignment (Section 42-730.323), add the RCA grant, less any child support paid to the county, and his/her food stamp allotment, and divide the sum by the average hourly wage for all job orders placed with EDD as determined annually by EDD.

.211 A PREP assignment shall not exceed 32 hours per week.

.212 In the event that the participant's food stamp allotment is at least twice the RCA grant amount, his/her PREP hours shall not exceed those arrived at by dividing his/her grant amount by the greater of the federal or state minimum wage.

.3 Priority in Services

.31 The CWD shall give priority in providing expensive services and services which must be provided for a lengthy period of time, to RCA GAIN clients who have over 12 months of time-eligibility remaining as of the date of registration, or who have little or no employment history.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Sections 10553, 11320(f)(5), 11320.2(e), and 11320.3(d)(2); and 8 USC Section 1522(e).

(5) Adopt MPP Section 42-803 to read:

42-803 BASIC PARTICIPANT CONTRACT REQUIREMENTS FOR RCA 42-803
GAIN PARTICIPANTS

- .1 Contract requirements in Sections 42-772.1, .2, .3 and .5 shall not apply to RCA GAIN participants.
- .2 If the RCA GAIN participant is deemed employable by the CWD, the basic contract shall provide that the individual has an option to participate either in Job Club (Section 42-730.21 or Supervised Job Search (Section 42-730.22).
- .21 Employable means a person who is not exempt under Section 69-208.4 or is not deferred under Section 42-761.3.
- .3 Any employable RCA GAIN participant who lacks basic literacy or math skills, a high school diploma or its equivalent, or English language skills, shall participate in either remedial education, instruction in order to obtain a General Education Development (GED) certificate, or instruction in English as a Second Language. This educational plan shall not be scheduled during Job Club or Job Search hours.
- .4 Self-initiated plans are allowable; however, an educational plan which includes full-time attendance in an institution of higher education, as defined in Section 69-206.5, shall not be allowed.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Sections 10553 and 11320.2(e); 8 USC Section 1522(e); and SRS-AT-76-160.

(6) Adopt MPP Section 42-804 to read:

42-804 DEVELOPMENT OF AN EMPLOYMENT PLAN FOR RCA
 GAIN PARTICIPANTS

42-804

.1 The following persons shall cooperate with the CWD, or agency contracting with the CWD, to develop a mutually agreed upon employment plan:

.11 Persons identified in Section 42-803.2 who have not obtained employment after three weeks of Job Club or Supervised Job Search.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Sections 10553, 11320.2(e), and 11320.5(c).

(7) Adopt MPP Section 42-805 to read:

42-805 SUPPORTIVE SERVICES FOR RCA GAIN PARTICIPANTS 42-805.

.1 RCA GAIN participants shall not be eligible for GAIN-funded
supportive services.

Authority: Welfare and Institutions Code Sections 10553 and
 10554.

Reference: Welfare and Institutions Code Sections 10553 and
 11320.2(e).

(8) Adopt MPP Section 42-806 to read:

42-806 CAUSE DETERMINATIONS FOR RCA GAIN PARTICIPANTS 42-806

.1 Cause determination requirements in Sections 42-781.1 through .3 shall apply, except that Sections 42-781.211(f) through (j) shall not apply. Additionally, Sections 42-781.6 through .9 shall not apply to RCA GAIN participants.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Sections 10553 and 11320.2(e); and SRS-AT-76-160.

(9) Adopt MPP Section 42-807 to read:

42-807 GOOD CAUSE CRITERIA FOR RCA GAIN PARTICIPANTS 42-807

.1 All good cause criteria specified in Section 69-208.6 shall apply. Good cause criteria specified in Sections 42-782 and 42-783 shall also apply except for Sections 42-783.1(k) through 42-783.1(m).

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Sections 10553 and 11320.2(e); and SRS-AT-76-160.

(10) Adopt MPP Section 42-808 to read:

42-808 METHOD OF DETERMINING NET LOSS OF INCOME 42-808

.1 Net loss of income provisions in Section 42-784 shall not
apply to RCA GAIN participants.

Authority: Welfare and Institutions Code Sections 10553 and
10554.

Reference: Welfare and Institutions Code Sections 10553 and
11320.2(e); and SRS-AT-76-160.

(11) Adopt MPP Section 42-809 to read:

42-809 CONCILIATION FOR RCA GAIN PARTICIPANTS

42-809

.1 For conciliation procedures, refer to Section 42-781.4 and
.5.

Authority: Welfare and Institutions Code Sections 10553 and
10554.

Reference: Welfare and Institutions Code Sections 10553 and
11320.2(e); and SRS-AT-76-160.

(12) Adopt MPP Section 42-810 to read:

42-810 MONEY MANAGEMENT FOR RCA GAIN PARTICIPANTS 42-810

.1 Money management provisions in Section 42-785 shall not apply to RCA GAIN participants.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Sections 10553 and 11320.2(e); and SRS-AT-76-160.

(13) Adopt MPP Section 42-811 to read:

42-811 FINANCIAL SANCTIONS FOR RCA GAIN PARTICIPANTS 42-811

.1 If the nonexempt, nondeferred RCA GAIN participant has refused or failed, without good cause, to meet or comply with the requirements of Sections 69-208.1 through 69-208.3 and .5, and Sections 42-781.11 through .13, and the conciliation efforts in Section 42-781.4 have failed, the CWD shall discontinue benefits in accordance with Section 69-208.7.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Sections 10553 and 11320.2(e); SRS-AT-76-160; and ORR-AT-83-6.

(14) Adopt MPP Section 42-812 to read:

42-812 STATE HEARINGS FOR RCA GAIN PARTICIPANTS

42-812

.1 State hearing and formal grievance procedures in Section 42-787 shall not apply to RCA GAIN participants. For state hearing procedures, refer to Section 69-221.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Sections 10553 and 11320.2(e); and 8 USC Section 1522(e).

(15) Adopt MPP Section 69-206.121 to read:

69-206 ELIGIBILITY FOR REFUGEE DEMONSTRATION PROJECT (RDP) 69-206
OR REFUGEE CASH ASSISTANCE (RCA)

.1 Eligibility Factors

.12 RCA

Requirements of categorical relatedness applicable to the AFDC program are waived for assistance under RCA (see Section 69-203.41) and aid shall be granted without regard to the presence of children, age or number of hours worked. Factors which must be considered in determining eligibility are: time eligibility (69-206.212); refugee status (69-203.1); income and resources (69-207); income eligibility (69-206.4); attendance in an institution of higher education (69-206.5); and registration, employment and employment-directed educational/training requirements (69-208). In addition to these factors, as a condition for receiving assistance, the applicant/recipient shall, if applicable, provide the name of is/her sponsor or responsible VOLAG.

.121 RCA eligibles who reside in areas in which the county plan provides for their participation in the GAIN program, and who have more than six months of time-eligibility remaining, shall be required to participate in GAIN. See Chapter 42-800 provisions.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Sections 10553, 11320(f)(5), 11320.2(e), and 11320.5(a).

FACE SHEET
(OAL-4)

(See Instructions on Reverse)

**FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW**

ORD #0585-30
(Certificate of Compliance
and Final Modifications)

8512276
FILED

In the office of the Secretary of State
of the State of California

JAN 24 1986
At 4:13 o'clock P.M.
MARCH FONG EU, Secretary of State
By *Mypie Herzhberger*
Deputy Secretary of State

ENDORSED
APPROVED FOR FILING

JAN 24 1986

Office of Administrative Law

LEAVE BLANK

1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

Department of Social Services
(AGENCY)

BY: *Linda S. Nicholson*
(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION

Jerry Demorest, Regulations Analyst

TELEPHONE
(916) 323-0881

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

MPP SECTIONS AMENDED 63-407.1, .21d-.21j, .223, .31, .34, .35, .36, .4 et seq., .621c,
Title: 22 .8 et seq., and .9 Title; 63-408.1 et seq., .2 et seq., and .3 et seq.
MPP SECTIONS ADOPTED
63-056 et seq; 63-407.53 and .92; 63-408.112, .12, .31j, .32, and .41k
MPP SECTIONS REPEALED
63-407.21e and .47; 63-408.21

3. TYPE OF ORDER (CHECK ONE)

- ☐ Regular ☐ Emergency (Attach Finding of Emergency) ☒ Certificate of Compliance and Final Modifications
- Other Regulatory Actions:
- ☐ Procedural and Organizational Change ☐ Editorial Correction ☐ Authority and Reference Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

- ☒ No ☐ Yes, if yes give date of previous filing _____

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

- ☒ No ☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES, CHECK THE APPROPRIATE BOX OR BOXES.

- ☐ State Fire Marshal (Attach Approval) ☐ Building Standards Comm. (Attach Approval) ☐ Fair Political Practices Comm. (Include FPPC Approval Stamp) ☒ Department of Finance (Attach STD. Form 399)

**7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER**

July 19, 1985 (45 Day Notice)
November 29, 1985 (15 Day Renotice)

b. DATE OF ADOPTION OF REGULATION(S)

December 26, 1985

**c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))**
November 29, 1985 through
December 16, 1985 inclusive.

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

- ☒ No ☐ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS ON REVERSE)

- a. ☒ Effective 30th day after filing with the Secretary of State.
- b. ☐ Effective on _____ as required by statutes: (list) _____
- c. ☐ Effective on _____ (Designate effective date **earlier than** 30 days after filing with the Secretary of State pursuant to Government Code Section 11346.2(d).)
- ☐ Request Attached
- d. ☐ Effective on _____ (Designate effective date **later than** 30 days after filing with the Secretary of State.)

INSTRUCTIONS FOR STD 400
(OAL-4)

A completed Face Sheet for Filing Regulations With the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer authorized to submit regulations.

Part 1. Provide agency name and signature of the agency officer. Also provide the name and telephone number of the person who can answer questions regarding this regulatory filing.

Part 2. Provide the Administrative Code Title in which the regulation will appear and list each section number to be amended, adopted, or repealed.
(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

Part 4. Check appropriate box.

Part 5. Regulatory activity resulting from the agency's review of existing regulations should be submitted in a separate filing. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 6. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

- a. Fire and panic safety regulations (Gov. Code Sec. 11342.3).
- b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346.5(a) (6), 11349.1 and S.A.M. Sections 6050-6057.

Part 7. a. Provide the publication date of the Notice Register in which the initial notice regarding these regulations appeared.

b. Provide the date on which the regulatory agency adopted the regulation(s).

c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

Filing Requirements

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required.
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

CERTIFICATE OF COMPLIANCE - Section 11346.1(e), Government Code


The Department of Social Services hereby certifies that it has complied with the provisions of Sections 11346.4 through 11346.8 inclusive of the Government Code, within 120 days of the effective date of the following emergency regulations which were filed with the Secretary of State on August 29, 1985, and which became effective on September 1, 1985.

Manual of Policy and Procedures, Division 22, Chapter 63-400, Sections:

<u>Amended</u>	<u>Adopted</u>	<u>Repealed</u>
63-407.21d through .21j, .223, .4, .52, and .521, .54, .822, .831b, .9 Title	63-056 63-407.92 63-408.112, .12	63-407.21e and .47
63-408.1, .1 et seq., and .3 et seq.		

These regulations were presented at public hearing on September 3, 4, and 5, 1985. As a result of the public hearing the following sections have been changed.

<u>Amended</u>	<u>Adopted</u>	<u>Repealed</u>
63-407.1, .31, .34, .35 .36, .4 Introductory Paragraph, .5 et seq., .621c, .8	63-407.53 63-408.41k	63-408.21
63-408.1 et seq; .2 et seq., and .3 et seq.		



LINDA S. McMAHON
Director

December 26, 1985
Date

(1) Adopt MPP Section 63-056 to read:

63-056 IMPLEMENTATION OF THE WORK REGISTRATION/JOB, 63-056
SEARCH/VOLUNTARY QUIT PROVISIONS

CWDs shall implement the revised provisions of the work registration, job search, and voluntary quit regulations (Sections 63-407.21d and e, .223, .4 et. seq., .52, .521, .54, .822, .831b, .92; 63-408.1, .11 et. seq., .12 et. seq., .3, .31 and .32) as follows:

- 1 Effective September 1, 1985 these revised provisions shall apply to all new applicants.
- 2 These provisions shall be applied to participating households at the time of their recertification, or any other time they have office contact after August 31, 1985.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: 7 CFR 272.1(g)(63)(i).

(2) Amend MPP Section 63-407, et seq. to read:

(2FM) Modify MPP Section 63-407, et seq. to read:

63-407 WORK REGISTRATION REQUIREMENTS

63-407

•1 Persons Required to Register (Continued)

The county welfare department shall determine which household members are required to register for employment. Each household member who is not exempt by Section 63-407.2 shall register for employment at the time of application and once every twelve months after initial registration as a condition of eligibility, unless the household is entitled to expedited service. If the household is entitled to expedited service, household members subject to work registration shall be registered as indicated in Section 63-301.5. Registrants who move out of a county shall reregister for work at their new location unless the registrant's new address is within the same Employment Development Department (EDD) jurisdiction with the agency designated by the state to provide employment services to FS program registrants within their particular locality hereinafter referred to as the employment services agency (ESA). The ESA may be the state Employment Development Department (EDD), a county agency, or a contract agency designated by the state to serve the employment needs of registrants who have been referred by the CWD. Under the provisions of Section 63-402.611, the registration form (DE 8435 FS) may be completed by someone other than the household member required to register.

•2 Exemptions from Work Registration

•21 The following persons are exempt from the food stamp work registration requirement and shall not complete Form DE 8435 FS: (Continued)

a. (Continued)

b. (Continued)

c. (Continued)

d. A parent or other household member who is responsible for the care of a dependent child under 6 or an incapacitated person. If the child has his/her 6th birthday within a certification

period, the individual responsible for the care of the child shall fulfill the work registration requirements as part of the next scheduled recertification process, unless the individual qualifies for another exemption;

e. A person who is in receipt of unemployment compensation or who has applied for, but has not yet begun to receive unemployment compensation, if that person was required to register for work with EDD as a part of the unemployment compensation application process. If the exemption claimed is questionable, the CWD shall be responsible for verifying the exemption with the appropriate EDD office as required by Section 63-300.53;

f. (Continued)

g. (Continued)

h. (Continued)

i. (Continued)

.22 Loss of Work Registration Exemptions (Continued)

.223 Those persons exempt because they are registered for work under one of the programs specified in Section 63-407.21c, e, and i and are deemed ineligible to participate in that program due to a change in household circumstances other than failing to comply with the work registration requirements of that program shall register for work under the Food Stamp Program within 10 calendar days from the date they lose their eligibility for that program. For treatment of persons who fail to comply with the work registration requirements of a program specified in Section 63-407.21c, e, and i, see Section 63-407.52.

.3 CWD Requirements

.31 Upon reaching a determination that an applicant or a member of the applicant's household is required to register, the CWD shall explain to the applicant the work registration and work requirements in Section 63-407.4, his or her rights and responsibilities, and the consequences of failure to comply. The CWD shall provide work registration forms, DE 8435 FS, to the

applicant for each household member required to register for employment, and permit the applicant to complete the form for those members in accordance with Section 63-402.611. Instructions for completing the DE 8435 FS call for mandatory social security numbers. If an individual is otherwise eligible for food stamp benefits (see Section 63-404), but cannot provide a social security number at the time of work registration, EOB the ESA can create a pseudo-number for entry in the food stamp work registrant's file. In these cases, the CWD should annotate the DE 8435 FS before sending it to EOB the ESA, stating the situation.

•32 (Continued)

•33 (Continued)

•34 Within five working days after the household has been certified, the CWD shall forward the work registration form to the EOB ESA office having jurisdiction over the area where the registrant resides. Work registration forms shall not be forwarded to EOB the ESA until the household is certified.

•35 The CWD shall notify the appropriate EOB ESA office of those work registrants who subsequently become exempt from the work registration requirement, who are no longer certified for participation in the Food Stamp Program, or who move from the EOB ESA office's area of jurisdiction. The CWD shall also notify EOB the ESA promptly of a change in address if the CWD becomes aware that a work registrant has moved from one location to another within the same EOB ESA jurisdiction. The above notification shall be provided to EOB the ESA (form to be provided by DSS) within 30 days from the date the change becomes known to the CWD.

•36 If the CWD has required an individual to register for work and EOB the ESA disagrees, EOB the ESA will request in writing that the CWD reconsider its determination. The CWDs shall respond in writing to EOB the ESA within 30 days, and their response shall be accepted by EOB the ESA as final.

•4 Work Registrants Requirements

All persons required to registered for work under the Food Stamp Program (via Form DE 8435FS) or under an alternate program specified in Section 63-407.21c, e, or 1, shall meet

comply with the following additional requirements when requested by the ESA agency they are registered with:

- 41 Report for a job assessment interview.
- 42 Respond to a request for supplemental information regarding employment status or availability for work.
- 43 Report to an employer to whom referred if the potential employment meets the suitability requirements described in Section 63-407.7.
- 44 Accept a bona fide offer of suitable employment, as defined in Section 63-407.7.
- 45 Continue suitable employment until it is no longer considered suitable in accordance with Section 63-407.7, until they are terminated from employment due to circumstances beyond their control, or until they become exempt from the work registration requirement as provided in Section 63-407.2.
- 46 Comply with the job search requirements described in Section 63-407.8.
- 47 Repealed by Manual Letter No. 85-56, effective 9/1/85.

•5 Failure to Comply

- 51 ~~EDB~~ The ESA shall provide notification to the CWD when it is determined by ~~EDB~~ the ESA that a work registrant has failed without good cause to comply with the requirements of Section 63-407.4. Such notification shall be in writing (Form DE 8863 FS) and shall be provided within five working days of the date such information becomes known to ~~EDB~~ the ESA.
- 52 ~~If~~ When the CWD is informed by the ESA that a work registrant, has refused or failed without good cause to comply with any the requirements of Section 63-407.4, the entire household shall be ineligible to participate in the Food Stamp Program for two months or until either the member becomes exempt from the work registration requirement or the member complies with the requirements of Section 63-407.6 the period specified in Section 63-407.53.
- 521 If the CWD is informed that a household member who is registered for work under any of the alternate programs specified in Sections 63-407.21c, e, or

i, has refused or failed without good cause to comply with a work registration requirement, the CWD shall determine if the requirement is comparable to the food stamp requirements specified in Section 63-407.4.

(a) If the CWD determines that the work registration requirement is comparable, the entire household shall be disqualified in accordance with Section 63-407.523 above. The household shall be notified of the disqualification as specified in Sections 63-407.534 and 63-408.2.

(1) A household shall not be disqualified from participation if the noncomplying member is no longer required to be work registered in accordance with Section 63-407.2.

(b) If the CWD determines that the work registration requirement is not comparable, the household shall not be disqualified. However, the noncomplying member shall lose his/her food stamp work registration exemption under Section 63-407.21c, e, or 1 and must register for work, if required to do so under Section 63-407.1.

.53 The period of disqualification for a work registrant failing to comply with the requirements of Section 63-407.4, is as follows:

.531 If the work registrant fails to comply with any requirement of Section 63-407.4, provided eligibility cannot be reestablished pursuant to Section 63-407.6, the disqualification period is two months except as specified in .532 below:

.532 If the work registrant is the primary wage earner and fails to continue suitable employment as specified in Section 63-407.45 because of a voluntary quit without good cause, the disqualification period is three calendar months pursuant to Section 63-408.222.

.534 Within 10 days after the EBB office ESA provides notification of the work registrant's failure to comply with the requirements of Section 63-407.4, the CWD shall provide the household with a Notice of Disqualification.

(DFA 377.10). Such notification shall contain the proposed period of disqualification and shall specify that the household may reapply at the end of the disqualification period. Information shall also be included on the procedures and requirements contained in Section 63-407.6. The disqualification period shall begin with the first month following the expiration of the adverse notice period, unless a state hearing is requested. If a state hearing is requested, continued participation shall be in accordance with Section 63-804.6.

.5341 Each household has a right to a state hearing to appeal a denial, termination or reduction of benefits due to a determination of nonexempt status, or an EBB ESA determination of failure to comply with the work registration or job search requirements. The household can appeal EBB the ESA actions such as the job search category assigned, the number of job search contacts assigned, EBB the ESA refusal to accept an action as a job search contact or EBB refusal to make a finding of good cause. If a state hearing is scheduled, the CWD shall provide EBB sufficient advance notice to permit the attendance of an EBB the ESA representative, if it is anticipated that such attendance will be necessary.

.545 Determining Good Cause

EBB The ESA shall be responsible for determining good cause in those instances where the work registrant has failed to comply with the requirements of Section 63-407.4.

In determining if good cause existed for failure to comply with any work registration/job search requirements, EBB the ESA shall consider the facts and circumstances, including information submitted by the household member involved and/or the employer. Good cause shall include circumstances beyond the member's control, such as, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, lack of adequate child care for children between the ages of six and twelve who have reached age six but are under twelve years of age [see Section 63-408.341(j)], the unavailability of transportation, or problems caused by inability of the work registrant to speak, read, or write English.

•6 Ending Disqualification (Continued)

•62 (Continued)

•621 For those households disqualified for noncompliance with the work registration provisions, eligibility may be reestablished during the disqualification period if the household is otherwise eligible and if the member who caused the disqualification:

a. (Continued)

b. (Continued)

c. Complies as follows:

(1) (Continued)

(2) If the member was disqualified for refusal without good cause to report for an interview with EBB the ESA (after being given two opportunities to report), the household's eligibility may be reestablished during the disqualification period only if the member becomes exempt from the work registration requirement or is no longer a member of the household.

(3) If the member was disqualified for refusal to respond to a request from EBB the ESA for supplemental information regarding employment status or availability for work, the member shall comply with the request.

(4) If the member was disqualified for refusal to report to an employer to whom referred by EBB the ESA, the member shall report to this employer if work is still available or to another employer to whom referred.

(5) If the member was disqualified for refusal to accept a bona fide offer of suitable employment to which referred by EBB the ESA, the member shall accept this employment, if

still available to the participant; accept any other employment which yields earnings per week equivalent to the refused job; or accept any other employment of at least 30 hours per week, with weekly earnings equal to the federal minimum wage multiplied by 30 hours.

- (6) If the member was disqualified for refusal to continue suitable employment to which referred by the EOB ESA office, the member shall return to this employment, if still available to the participant; or accept any other employment which yields weekly earnings equivalent to the refused job; or accept any other employment of at least 30 hours per week; or accept any other employment of less than 30 hours per week but with weekly earnings equal to the federal minimum wage multiplied by 30 hours.

EOB The ESA shall notify the CWD in writing (DE 8863 FS), if EOB the ESA becomes aware that the member has complied in accordance with (3), (4), (5), or (6) above. Such notification shall normally be provided within five working days of the date the information becomes known to EOB the ESA.

•7 Suitable Employment (Continued)

•8 Job Search (Continued)

Persons required to register for work shall be subject to the appropriate job search requirements discussed below to the extent that these requirements are implemented by EOB within the county by the ESA. Failure to comply with the job search requirements, without good cause, shall result in the household's disqualification as established in Section 63-407.5.

•81 Assessment Interview

- 811 Unless EOB the ESA determined from available information that the work registrant would be exempt from actively engaging in job search based

upon the criteria established in Section 63-407.814(c), work registrants may be required to report to an assessment interview with EBB the ESA each time they register for work. EBB The ESA shall normally schedule the interview to occur within two weeks of the date EBB it receives the work registration form (DE 8435 FS) from the CWD.

When scheduling an assessment interview, EBB the ESA shall send the registrant a letter informing the registrant of the date of the interview, that appearance for an interview at EBB is a condition of participation in the Food Stamp Program, and how the registrant can contact EBB the ESA to reschedule the interview if necessary.

- .812 If the work registrant fails to appear for the first interview and has not contacted EBB the ESA in advance to reschedule the initial interview, EBB the ESA shall send a second letter scheduling another interview to occur within the next two weeks. This letter shall inform the registrant of the date of the rescheduled interview, explain that this is EBB's the last attempt to schedule the interview and the consequences of failing to appear for the rescheduled interview appointment without good cause, and provide procedures for contacting EBB the ESA if the rescheduled interview cannot be attended by the work registrant for good cause.

- .813 If the work registrant fails to appear for the rescheduled interview without good cause, the ESA shall notify the CWD shall be notified in writing by EBB of the failure within five working days of the date of the registrant's failure to appear.

- .814 During After the assessment interview, EBB the ESA will place each work registrant in one of the job search categories listed below: (Continued)

- c. Category III - Exempt. Those work registrants for whom a job search is determined to be impractical, specifically including those individuals residing an unreasonable distance from the appropriate EBB ESA office or potential employers (a distance shall be considered unreasonable if the round trip exceeds two hours by

reasonably available public or private transportation), and migrant and seasonal farmworkers away from their home base and following the migrant work stream. The EBB determination of exempt status should be made at the time the work registration form is received from the CWD to preclude the need of such persons to travel to the EBB ESA office for an assessment interview, unless it is impossible for EBB to determine exempt status from the form for a particular registrant.

- 815 After placing the work registrant in the appropriate job search category, EBB the ESA shall provide to each work registrant written notification regarding his/her job search requirements, procedures to be followed, and the consequences of failure to comply.

•82 Requirements

- 821 If required to do so by EBB the ESA, persons classified in Category I must comply with the job search requirements discussed below for a period of eight weeks each twelve months when they are initially certified, when they lose a work registration exemption, or when they register for work upon reentering the Food Stamp Program after a period of absence whichever occurs sooner.

- a. The EBB office ESA may require either that the eight week period be one continuous period, or that it be divided into two separate job search periods that total eight weeks. For example, the EBB ESA office might require a registrant to undertake two four-week job searches, with the second period following six months after the first. EBB The ESA may schedule the job search period(s) at the time(s) it determines the job search would be most effective, taking into account job market conditions and the registrant's skills and experience.
- b. EBB The ESA may shorten or suspend the job search period if economic or personal circumstances warrant. EBB could The ESA can suspend a job search period and then

resume it later if factory closings or other circumstance make it likely that the job search period would be more productive at a subsequent time.

c. (Continued)

d. Registrants subject to the job search requirements must take the following actions:

(1) Contact, as required by EOB, the ESA up to twenty-four prospective employers during the eight-week period. If the job search period is shortened, the number of required job contacts shall be reduced on a pro rata basis, to the maximum extent practicable. A referral by EOB, the ESA to an employer shall be considered a job contact for Food Stamp Program purposes, provided the registrant presents himself-herself to the employer as described in Section 63-407.84.

(2) Twice during the eight-week job search period, report at a prescheduled time to EOB, the ESA on the result of all job contacts. If the eight-week job search activity is divided into two separate periods, EOB, the ESA may require the registrant to report once during each period of job search activity. Job contacts shall be reported in written form as discussed in Section 63-407.85.

.822 Work registrants classified in Category II will not be assigned any specific job search activity. Job attached persons who have not returned to their jobs or otherwise become exempt from the work registration requirement may be called in for reassessment at the end of sixty days. Other persons may be called in by EOB, the ESA during the 12-month registration period. During subsequent interviews, job files will be reviewed for potential referrals, and the job search

categorization of such individuals will be reassessed.

•823 (Continued)

•83 Follow-up Activities

•831 Scheduling Follow-up Interviews (Continued)

- a. At the time of the initial assessment interview with the work registrant, EØØ the ESA shall establish a schedule for two follow-up interviews over the job search period for Category I registrants. EØØ The ESA may reduce the number of follow-up interviews to one for Category I registrants when the job search period and number of job contacts are reduced. Such schedules shall be documented and provided in written form to the work registrant.
- b. Category II registrants shall be informed that they shall be contacted either within the 12-month registration period or in 60 days if they are job attached.
- c. If the work registrant fails to report for the follow-up interview for any reason, and has not contacted EØØ the ESA in advance to reschedule the interview, EØØ the ESA shall contact the work registrant by letter to schedule another interview within the next two weeks. The letter shall inform the registrant of the date of the rescheduled interview, explain to the registrant the consequences of failing to appear for the rescheduled interview without good cause, and provide procedures for contacting EØØ the ESA if the rescheduled interview cannot be attended by the work registrant for good cause.
- d. If the work registrant fails to report to the rescheduled interview without good cause, the ESA shall notify the CWD shall be notified in writing by EØØ of the failure within five working days of the date of the registrant's failure to report.

- .832 At the time of each follow-up interview, EØØ the ESA shall review the job contacts made by the work registrant, review job listings for potential referrals, and assist the work registrant in establishing his or her future plans for seeking employment.
- .833 EØØ The ESA shall notify the CWD in writing (DE 8863 FS) when a work registrant obtains employment. Such notification shall be provided within five working days of the date the information becomes known to EØØ the ESA.
- .84 Job Contact
 - .841 (Continued)
 - .842 Depending upon the position being sought, the job contact requirement may be fulfilled by either a personal visit to the prospective employer or another method of application which is considered by EØØ the ESA to be generally accepted practice. The work registrant cannot contact the same employer in subsequent weeks unless the initial contact indicated that vacancies in suitable job positions may soon exist.
- .85 Reporting Job Contacts
 - .851 Job contacts shall be reported in writing in a manner prescribed by EØØ the ESA. At the time of the initial interview with EØØ the ESA, the work registrant shall be told about the manner of reporting. While such reporting will not require the employer's written confirmation of the job contact, the work registrant shall be required to sign the written documentation to attest to its validity. The written report shall be submitted to EØØ the ESA at the time of the work registrant's follow-up interview.
 - .852 The work registrant shall be responsible for providing EØØ the ESA, upon reasonable request, any additional information regarding job contacts.
 - .853 At the end of the job search period, EØØ the ESA shall determine if the work registrant has completed the assigned number of job contacts.
 - a. (Continued)

- b. If the work registrant was assigned a single continuous eight-week job search period, no additional time shall be allowed unless EBB the ESA fails to accept, for reasons such as suitability or manner or contact, a job contact(s) reported by the registrant. In such instances, the work registrant shall be allowed an additional two weeks to make up the disallowed contact(s).

c. (Continued)

•86 EBB ESA Review

If a work registrant believes that an EBB ESA determination is improper, review of the determination may be obtained from a designated EBB ESA official not involved in the original determination. For example, if the work registrant believes he or she has been improperly assigned to a job search category or assigned an improper number of job search contacts, or that an action which should have been counted as a contact was not, a review may be obtained. This would also apply to EBB the ESA determination that noncompliance was not for good cause.

•9 Optional Food Stamp Employment Programs (Continued)

•91 (Continued)

- 92 Counties shall obtain state approval to operate the Optional Food Stamp Applicant Job Search Program in compliance with the requirements of Title 7 of the Code of Federal Regulations, Section 273.7.

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: Welfare and Institutions Code Sections 18901 and 18902; 7 USC Section 2029 and 7 CFR Sections 273.22 and 273.7.

(3) Amend MPP Sections 63-408.1, et seq., .3 and .31 to read:

(3FM) Modify MPP Sections 63-408.1 et seq., .2 et seq., .3 et seq. and renumber .4 et seq. to read:

63-408 VOLUNTARY QUIT

63-408

•1 No applicant or participating household whose primary wage earner voluntarily quit his/her most recent job without good cause shall be eligible for participation in the program when a primary wage earner has voluntarily quit employment without good cause as specified in this section below. For the purpose of this section, employment shall mean 20 hours or more per week or weekly earnings equivalent to the federal minimum wage multiplied by 20 hours.

•11 Application Processing Applicant Households

•111 When a household files an application or reapplication, the county welfare department CWD shall determine if the primary wage earner any currently unemployed household member who is required to register for full-time work has quit his/her most recent a job without good cause within the last either 60 days before filing an application or when last participating in the Food Stamp Program. The CWD shall process the application within ordinary time frames specified in Section 63-301 and shall not delay benefits pending a voluntary quit or good cause determination. The CWD shall explain to the applicant the consequences of the primary wage earner quitting his/her job without good cause. For the purpose of this subsection, employment shall mean 20 hours or more per week or weekly earnings equivalent to the federal minimum wage multiplied by 20 hours. Changes in employment status that result from reducing hours of employment while working for the same employer, terminating a self-employment enterprise or resigning from a job at the demand of the employer will not be considered as a voluntary quit for purpose of this subsection.

•1121 When If the CWD learns that a household has lost a source of earned income after the date of application but before the household is certified, the CWD shall determine whether a voluntary quit occurred.

•11312 If a determination of voluntary quit is established, the CWD shall then determine if that member is the household's primary wage earner. For purposes of this section, the primary wage earner shall be that household member age 18 or over who was acquiring the greatest amount of earned financial support for the household at the time of the quit. The primary wage earner is determined by comparing the projected earnings of the member who quit employment in the month the voluntary quit occurred as if he/she had not ceased employment against the actual or, if not available, the projected earnings of each remaining household member.

•11413 Upon a determination that the primary wage earner voluntarily quit employment, the CWD shall determine if the voluntary quit was with good cause as defined in Section 63-408.34. If the voluntary quit was not for good cause, the household's application for participation shall be denied for a period of 90 days starting from the date of application. The household shall be advised of the reason for the denial and of its rights to reapply and/or request a state hearing.

•11514 If an application for participation in the program is filed in the third month of disqualification, the CWD shall use the same application for:

(a) 141 the denial of benefits for the remainder of the disqualification period and;

(b) 142 certification of benefits after the final day of disqualification if all other eligibility criteria are met. (See Section 63-503.11.)

•15 The CWD shall inform the applicant of the consequences of the primary wage earner quitting his/her job without good cause.

•12 Participating Households

•121 When the CWD learns that a participating household has lost a source of earned income, the CWD shall determine whether any household member the primary wage earner voluntarily quit his or her a job and whether there was good cause as defined in Section 63-408.4. Benefits shall not be delayed pending this determination.

•122 Upon a determination by the CWD that the primary wage earner voluntarily quit employment, the CWD shall

determine if the voluntary quit was with good cause as defined in Section 63-408.3.

(a).22 If Upon a determination that the voluntary quit was not for good cause, the household shall be disqualified for a period of three (3) calendar months. The disqualification period shall begin with the first month following the expiration of the adverse notice period, unless a state hearing is requested. If a state hearing is requested, continued participation shall be in accordance with Section 63-804.6. CWD shall provide the household with a Notice of Disqualification (DFA 377.10) within 10 days of making the determination. The notice shall:

.221 Explain the reason for the proposed disqualification;

.222 Specify that the sanction period is three (3) calendar months beginning the first of the month following the month the household is provided a timely notice of action;

.223 Explain the conditions under which the household may reapply; and

.224 Inform the household of the right to request a state hearing. If a state hearing is requested, continued participation shall be in accordance with Section 63-804.6.

(b).23 If a household leaves the program before the sanction can be imposed, the sanction shall be applied when the household returns to the program.

•23 Exemptions from voluntary quit provisions.

The following persons are exempt from voluntary quit provisions:

.21 Primary wage earners in households certified for the program at the time of the quit.

.2231 Persons exempt from the full-time work registration provisions as stated in Sections 63-407.21 except for persons registered in an alternate program as specified in Section 63-407.21(i).

.2332 Strikers, as defined in Section 63-402.9, except for an employee of the federal, state or local government, who

has been dismissed because of his/her participation in a strike against such government.

(See Section 63-482-9.)

- 34 Good cause. The CWD shall be responsible for determining good cause in those instances where a primary wage earner has voluntarily quit a job. The CWD shall consider the facts and circumstances, including information submitted by the household member involved and the employer.

•341 Good cause for leaving employment shall include:

(a) (Continued)

(b) (Continued)

(c) (Continued)

(d) (Continued)

(e) (Continued)

(f) (Continued)

(g) (Continued)

(h) (Continued)

(i) (Continued)

(j) Situations where there is a lack of adequate child care arrangements available for the registrant's children between six and who have reached age six but are under twelve years of age. For purposes of this section, adequate child care arrangements means those which meet the standards in Title 22, California Administrative Code (CAC), Division 6, Chapter 2 (commencing with Section 81000) and Chapter 8.5 (commencing with Section 88001).

(k) Changes in employment status that result from reducing hours of employment while working for the same employer, terminating a self-employment enterprise or resigning from a job at the demand of the employer.

- 342 The following shall not constitute good cause for leaving employment:

- (a) When a federal, state, or local government employees has who have been dismissed from their jobs because of his/her participation in a strike against the government entity involved.

•45 Verification (Continued)

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR Section 273.7.

FACE SHEET

(OAL-4)

(See Instructions on Reverse)

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

ORD #0785-40

8601134

FILED
In the office of the Secretary of State
of the State of California

FEB 21 1986

At 4:25 o'clock P. M.

MARCH FONG EU, Secretary of State

By: *Virginia L. And*
Deputy Secretary of State
LEAVE BLANK

1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

Department of Social Services

(AGENCY)

BY:

Linda S. McMahon
(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION

Andy Molina, Regulations Analyst

TELEPHONE

445-0313

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

SECTIONS AMENDED

Title: 22 42-211.21, 42-213.2, 44-111.31, 44-113.8 and .81

SECTIONS ADOPTED

SECTIONS REPEALED

3. TYPE OF ORDER (CHECK ONE)

☒ Regular

☐ Emergency
(Attach Finding of Emergency)

☐ Certificate of Compliance

Other Regulatory Actions:

☐ Procedural and Organizational
Change

☐ Editorial Correction

☐ Authority and Reference
Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

☒ No

☐ Yes, if yes give date of previous filing _____

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

☒ No

☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES,
CHECK THE APPROPRIATE BOX OR BOXES.

☐ State Fire Marshal
(Attach Approval)

☐ Building Standards Comm.
(Attach Approval)

☐ Fair Political Practices Comm.
(Include FPPC Approval Stamp)

☐ Department of Finance
(Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

October 4, 1985

b. DATE OF ADOPTION OF REGULATION(S)

January 6, 1986

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

N/A

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

☒ No

☐ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS
ON REVERSE)

a. ☒ Effective 30th day after filing with the Secretary of State.

b. ☐ Effective on _____ as required by statutes: (list) _____

c. ☐ Effective on _____ (Designate effective date **earlier than** 30 days after filing with the Secretary
of State pursuant to Government Code Section 11346.2(d).)

☐ Request Attached

d. ☐ Effective on _____ (Designate effective date **later than** 30 days after filing with the Secretary of
State.)

INSTRUCTIONS FOR STD 400
(OAL-4)

A completed Face Sheet for Filing Regulations With the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer authorized to submit regulations.

Part 1. Provide agency name and signature of the agency officer. Also provide the name and telephone number of the person who can answer questions regarding this regulatory filing.

Part 2. Provide the Administrative Code Title in which the regulation will appear and list each section number to be amended, adopted, or repealed.
(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

Part 4. Check appropriate box.

Part 5. Regulatory activity resulting from the agency's review of existing regulations should be submitted in a separate filing. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 6. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

- a. Fire and panic safety regulations (Gov. Code Sec. 11342.3).
- b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346.5(a) (6), 11349.1 and S.A.M. Sections 6050-6057.

Part 7. a. Provide the publication date of the Notice Register in which the initial notice regarding these regulations appeared.

b. Provide the date on which the regulatory agency adopted the regulation(s).

c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

Filing Requirements

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required.
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

(1) Amend Section 42-211.21 to read:

42-211 PROPERTY ITEMS TO BE INCLUDED IN EVALUATING PROPERTY. 42-211
WHICH MAY BE RETAINED (Continued)

.2 Personal Property To Be Included

.21 Liquid Resources

This includes cash on hand or in savings and checking accounts; ~~and other~~ financial instruments including but not limited to securities, stocks, bonds, mutual fund shares, cash surrender value of insurance policies, promissory notes, mortgages, and deeds of trust; and
refunds of income taxes.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Vaessen v. Woods (1984) 35 Cal. 3d 749.

(2) Amend Section 42-213.2j to read:

42-213.2 PROPERTY ITEMS TO BE EXCLUDED IN EVALUATING
PROPERTY WHICH MAY BE RETAINED (Continued)

42-213.2

j. Special Tax Rebates and Credits

Tax rebates, credits or similar temporary tax relief measures which state law for AP58 or federal law for AFDC specifically exclude from consideration as a personal property resource.

(1) 1974 Income Tax Rebates (Public Law 94-12) are exempt as long as the monies retained are not commingled and can be separately identified as a proportionate share of the recipient's property.

(2) \$50 Lump Sum Cash Payments (Public Law 94-12) are exempt as long as the monies retained are not commingled and can be separately identified as a proportionate share of the recipient's property.

The state shall promptly advise county welfare departments on the exempt status of other special tax rebates and credits in each program and shall prescribe the method of notifying recipients. Recipients must cooperate with county personnel by providing necessary information or documentation such as Form W-2 and Form 1040 to compute the correct grant amount. See Section 44-111.3(1) for treatment as income. This section does not apply to annual refunds of income tax.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Section 10553; Public Law 94-12, Sections 102 and 702 (1974), 89 Statutes 66; Statutes 1981, Chapter 69, Section 23.

(3) Amend Section 44-111.31 to read:

44-111 PAYMENTS EXCLUDED OR EXEMPT FROM CONSIDERATION 44-111
AS INCOME (Continued)

•3 Exemption of Payments from Public Sources (Continued)

1. Special Tax Rebates and Credits

Tax rebates, credits or similar temporary tax relief measures which state law for APSS or federal law for AFDC specifically exclude from consideration as income are exempt.

(1) 1974 Income Tax Rebate (Public Law 94-127)

(2) \$50 Lump Sum Cash Payment (Public Law 94-127)

(3) Federal earned income tax credit (Public Law 95-600). This exemption is effective until January 1, 1980.

The county welfare department shall retroactively reimburse the recipient when he/she notifies the county of an earned income credit received after July 1, 1976, for the taxable year 1976, if he/she either became ineligible or had his/her grant reduced as a result of receiving such payments. DSS will be notifying recipients of their possible eligibility for this reimbursement through an informational Medi-Cal letter.

The state shall promptly advise county welfare departments on the exempt status of other special tax rebates and credits in each program and shall prescribe the method of notifying recipients. Recipients must cooperate with county personnel by providing necessary information or documentation such as Form W-2 and Form 1040 to compute the correct grant amount. This section does not apply to annual refunds of income tax, which are net nonexempt income in the month received (see Section 44-113.8). HANDBOOK [Income tax refunds are classified as personal property (see Section 42-211.21).]

Authority: welfare and Institutions Code Sections 10553 and 10554.

Reference:

**Welfare and Institutions Code Section 10553;
Public Law 94-12, Sections 102 and 702 (1974), 89
Statutes 66; Statutes 1981, Chapter 69, Section
23.**

(4) Amend Sections 44-113.8 and .81 to read:

44-113 NET INCOME (Continued)

44-113

.8 Refunds of Income Taxes and Retirement Contributions

- .81 Lump sum refunds of income taxes or the employer's share of retirement contributions shall be considered net nonexempt income in the month received. Such refunds are not to be considered earned income for the month in which they are received, and the earned income exemption of Section 44-111.23 or .24 shall not be applied. [See Section 42-211.257 for treatment of the employee's share of retirement contributions.]

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Vaessen v. Woods (1984) 35 Cal. 3d 749.

FACE SHEET

(OAL-4)

(See Instructions on Reverse)

FOR FILING ADMINISTRATIVE REGULATIONS WITH THE OFFICE OF ADMINISTRATIVE LAW

ORD #0585-31

8601093

JAN 9 10 54 AM '86

ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING
FEB 21 1986

Office of Administrative Law

Office of Administrative Law

1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

Department of Social Services

(AGENCY)

BY:

(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

FILED
In the office of the Secretary of State
of the State of California

FEB 21 1986

At 3:42 o'clock P.M.

MARCH FONG EU, Secretary of State

By:

Deputy Secretary of State
LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION

Harry Baertschi, Regulations Analyst

TELEPHONE 445-7054

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

SECTIONS AMENDED ~~MPP~~ Sections 80001(41), 86018(b)(2) and 87400(a)
Title: 22

SECTIONS ADOPTED ~~MPP~~ Section 80007(a)(10)

SECTIONS REPEALED

3. TYPE OF ORDER (CHECK ONE)

- ☒ Regular ☐ Emergency (Attach Finding of Emergency) ☐ Certificate of Compliance
- Other Regulatory Actions:
- ☐ Procedural and Organizational Change ☐ Editorial Correction ☐ Authority and Reference Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

- ☒ No ☐ Yes, if yes give date of previous filing _____

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

- ☒ No ☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES, CHECK THE APPROPRIATE BOX OR BOXES.

- ☐ State Fire Marshal (Attach Approval) ☐ Building Standards Comm. (Attach Approval) ☐ Fair Political Practices Comm. (Include FPPC Approval Stamp) ☐ Department of Finance (Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER

August 2, 1985

b. DATE OF ADOPTION OF REGULATION(S)

December 20, 1985

c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOV. CODE SEC. 11346.8(c))

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

- ☒ No ☐ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS ON REVERSE)

- a. ☒ Effective 30th day after filing with the Secretary of State.
- b. ☐ Effective on _____ as required by statutes: (list) _____
- c. ☐ Effective on _____ (Designate effective date **earlier than** 30 days after filing with the Secretary of State pursuant to Government Code Section 11346.2(d).)
- ☐ Request Attached
- d. ☐ Effective on _____ (Designate effective date **later than** 30 days after filing with the Secretary of State.)

INSTRUCTIONS FOR STD 400
(OAL-4)

A completed Face Sheet for Filing Regulations With the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer authorized to submit regulations.

Part 1. Provide agency name and signature of the agency officer. Also provide the name and telephone number of the person who can answer questions regarding this regulatory filing.

Part 2. Provide the Administrative Code Title in which the regulation will appear and list each section number to be amended, adopted, or repealed.
(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

Part 4. Check appropriate box.

Part 5. Regulatory activity resulting from the agency's review of existing regulations should be submitted in a separate filing. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 6. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

- a. Fire and panic safety regulations (Gov. Code Sec. 11342.3).
- b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346.5(a) (6), 11349.1 and S.A.M. Sections 6050-6057.

Part 7. a. Provide the publication date of the Notice Register in which the initial notice regarding these regulations appeared.

b. Provide the date on which the regulatory agency adopted the regulation(s).

c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

Filing Requirements

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required.
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

(1) Amend ~~MPP~~ Section 80001(41) to read:

80001 DEFINITIONS (Continued)

80001

(41) "Rehabilitation Facility" means any facility of any capacity which provides 24-hour a day nonmedical care and supervision in a group setting to adults and/or emancipated minors recovering from ~~alcohol~~ and/or drug misuse, who are currently or potentially capable of meeting their life support needs independently, but who temporarily need assistance, guidance or counseling.

Authority: Health and Safety Code Section 1530.

Reference: Health and Safety Code Sections 1502, 1505, and
11834.11.

(2) Adopt MPP Section 80007(a)(10) and renumber existing Section 80007(a)(10)-(13) to read:

80007 EXEMPTION FROM LICENSURE

80007

(a) The community care facility regulations contained in this division shall not apply to any of the following.
(Continued)

(10) Any alcoholism recovery facility as defined by Section 11834.11 of the Health and Safety Code relating to alcohol programs.

Health and Safety Code Section 11834.11 provides in part:

(A) An "alcoholism recovery facility" means any facility, place, or building which is maintained and operated to provide 24-hour residential nonmedical alcoholism recovery services exclusively for individuals whose involvement in services is related primarily to an alcohol problem.

(1011)

(1112)

(1213)

(1314)

Authority: Health and Safety Code Section 1530.

Reference: Health and Safety Code Sections 1505¹⁵⁰⁶ and 11834.11.

800002A

(3) Amend ~~MPP~~ Section 86018(b)(2) to read:

86018 APPLICATION FOR LICENSURE (Continued)

86018

(b) To verify compliance with the requirements specified in Section 80062(a)(1), the licensing agency shall have the authority to accept written confirmation of the following from the State Department of Alcohol and Drug Programs:
(Continued)

(2) The facility is to be exclusively for clients recovering from ~~alcohol~~ drug and/or narcotics abuse.

Authority: Health and Safety Code Section 1530.

Reference: Health and Safety Code Sections 1501, 1502, and 1520, ~~and~~ 1531.

(4) Amend MPP Section 87400(a)(6) and renumber existing Section 87400(a)(6)-(8) to read:

87400 EXEMPTION FROM LICENSURE

87400

(a) The following shall be allowed to operate without being licensed as a residential facility for the elderly.
(Continued)

(6) Any alcoholism recovery facility as defined by Section 11834.11 of the Health and Safety Code relating to alcohol programs.

Health and Safety Code Section 11834.11 provides in part:

(A) An "alcoholism recovery facility" means any facility place or building which is maintained and operated to provide 24-hour residential nonmedical alcoholism recovery services exclusively for individuals whose involvement in services is related primarily to an alcohol problem.

(67)

(78)

(82)

Authority: Health and Safety Code Section 1530.

Reference: add Health and Safety Code Sections 1505 and 11834.11.

86-0129-2C

(See Instructions on Reverse)

FACE SHEET

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

ORD #0585-26

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

FILED

In the office of the Secretary of State
of the State of California

FEB 27 1986

MARCH FONG EU, Secretary of State

By *Virginia L. Rudy*
Deputy

For use by Secretary of State only

ENDORSED
APPROVED FOR FILING

FEB 27 1986

Office of Administrative Law

For use of Office of Adm Law

State Department of Social Services
(AGENCY)

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: *Jan 27 1986*

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions)
- | NAME | TITLE | TELEPHONE |
|-------------|---------------------|-----------|
| Rick Torres | Regulations Analyst | 445-0313 |
2. Type of filing, (check one) ☐ 30-day Review ☐ Emergency ☒ Certificate of Compliance (Complete Part 4 below)
- ☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
- ☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction
3. a. Specify California Administrative Code title and sections as follows:
- Title: *MPP*
22
- SECTIONS ADOPTED: *63-055; 63-503*
- SECTIONS AMENDED: *63-201.3 - .31, .311, .33; 63-201.312-.315; .34; 63-502*
- SECTIONS REPEALED:
- b. The following sections listed in 3a contain modifications to the text originally made available to the public: _____
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)
- ☐ prior to the emergency adoption
- ☒ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?
- ☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL: _____
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?
- ☒ No ☐ Yes, if yes, give date statement was submitted to OAL: _____
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)
- | | |
|--|--|
| <input type="checkbox"/> Fair Political Practices Commission (Include FPPC approval stamp) | <input type="checkbox"/> Building Standards Commission (Attach approval) |
| <input type="checkbox"/> State Fire Marshall (Attach approval) | <input type="checkbox"/> Department of Finance (Attach properly signed Std. 399) |
| <input type="checkbox"/> Other _____ (SPECIFY AGENCY) | |
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER
September 27, 1985
- b. DATE OF FINAL AGENCY ACTION
JAN 27 1986
- c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))
Not applicable.
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)
- a. ☒ Effective 30th day after filing with the Secretary of State.
- b. ☐ Effective upon filing with the Secretary of State.
- c. ☐ Effective on _____ as required or allowed by the following statute(s): _____
- d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
- e. ☐ Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
 - If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

CERTIFICATE OF COMPLIANCE - Section 11346.1(e), Government Code

The Department of Social Services hereby certifies that it has complied with the provisions of Sections 11346.4 through 11346.8 inclusive of the Government Code, within 120 days of the effective date of the following emergency regulations which were filed with the Secretary of State on ~~October 24, 1985~~, and which became effective on ~~November 1, 1985~~. ^{Nov. 1, 1985}
Dec. 5

Sections 63-055.1, .2, and .2(a); 63-201.3-.34, et. seq.; 63-502.15, .151, .16, and .161; and 63-503.5-.512, et. seq.

No Amendments or repealers resulted from the public hearing held on November 13, 1985.

Linda S. McMahon

LINDA S. McMAHON
Director

1/27/86

Date

63-055 IMPLEMENTATION OF THE FOOD STAMP DISCLOSURE
OF INFORMATION AND NONCOMPLIANCE WITH OTHER
PROGRAMS' PROVISIONS

63-055

All these provisions as amended or adopted herein, shall become effective December 1, 1985.

- 1 Section 63-201.3 et seq. relative to the disclosure of information from food stamp case files shall become operable on the effective date.
- 2 CWDs shall have the option of applying Sections 63-502.15 and .16; and Sections 63-503.5, .51, .511, .511(a), and .512 as amended or adopted herein, on a case-by-case basis when the eligibility worker becomes aware of a determination that a noncompliance violation has occurred; or a casefile search may be performed.
 - (a) If the CWD finds a case with a noncompliance violation and recoupment of the resulting overpayment has begun, food stamp benefits shall be reduced for the remainder of the penalty period.

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: Welfare and Institutions Code Section 18904 and 7 CFR Volume 49, No. 242, Friday, December 14, 1984, p. 48680.

.3 Disclosure

- .31 Use or disclosure of information obtained from food stamp case files, exclusively for the Food Stamp Program shall be restricted to the following persons:**
 - .311 Persons directly connected with the administration or enforcement of the provisions of the Food Stamp Act or regulations, the Food Distribution Programs, other Federal or federally-assisted state programs which provide assistance on a means-tested basis to low income individuals; and, general assistance programs that are subject to the joint processing requirements specified in Section 63-301.7;**
 - .312 Employees of the Comptroller General's Office of the United States for audit examination authorized by any other provision of law;**
 - .313 Local, state or federal enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the Food Stamp Act or regulations.**
 - (a) The written request shall include the identity of the individual requesting the information and his authority to do so, the violation being investigated, and the identity of the person on whom the information is being requested.**
 - .314 Persons directly connected with the administration of the Child Support Program under Title IV-D of the Social Security Act in order to assist in the administration of that program.**
 - .315 Employees of the Secretary of Health and Human Services as necessary to assist in establishing or verifying eligibility or benefits under Title II and Title XVI of the Social Security Act.**
- .32 If there is a written request by a responsible member of the household, its currently authorized representative, or a person acting in its behalf to review materials contained in its case file, the material and information ~~contained in the case file shall be made available for~~**

contained in the case file shall be made available for inspection during normal business hours. However, the county may withhold confidential information, such as the names of individuals who have disclosed information about the household without the household's knowledge, or the nature or status of pending criminal prosecutions.

- 33 This section shall not prohibit the furnishing of such information to county supervisors of schools or supervisors of school districts only as necessary for the administration of federally assisted programs providing assistance in cash or in-kind services directly to the individual on the basis of need.
- 34 Any of the persons specified in Sections 63-201.311 - .315 who receive food stamp case file information, shall adequately protect this information against disclosure to unauthorized persons or for purposes not specified in this section.

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: 7 CFR 272.1(c)(1) and Section 2651(a)(4) of the Deficit Reduction Act dated October 9, 1984 (PL 98-369).

- .15 Income shall also include monies withheld from CWD paid grants or other federal, state or local means-tested programs to repay an overpayment which resulted from the household's intentional failure to comply with that program's requirements. See Section 63-503.5.
- .151 For purposes of this section, "means-tested" means that the household's financial circumstances are considered in determining eligibility and/or benefit level, and these means-tested programs make publicly-funded payments to the household.
- .16 Income shall not include the following:
 - .161 Monies withheld from an assistance payment, earned income, or other income source, or monies received from any income source which are voluntarily or involuntarily returned, to repay a prior overpayment received from that income source, provided that the overpayment was not excludable under Section 63-502.2, or specified in Section 63-502.15.
 - .162

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: 7 CFR 273.9(b)(5)(i).

63-503 DETERMINING HOUSEHOLD ELIGIBILITY AND BENEFIT
LEVELS

63-503

.5 Households with a Decrease in Income Due to Intentional
Failure to Comply

.51 The CWD shall not increase food stamp benefits as the result of a penalty that has been imposed for an intentional failure to comply with a federal, state or local welfare program which is means-tested, as defined in Section 63-502.151. Food stamp benefits shall be determined in accordance with Sections 63-503.511 and .512.

.511 The CWD shall identify that portion of the decrease which is the penalty.

(a) The penalty shall be that portion of the decrease in the grant attributed to the repayment of benefits overpaid as a result of the household's intentional failure to comply as determined by the other program.

.512 The CWD shall calculate food stamp benefits using the benefit amount that would have been issued if no penalty had been imposed.

Authority: Welfare and Institutions Code Sections 10554 and 18904.

Reference: ~~welfare and Institutions Code Section~~ 7 CFR 273.11(j).

FACE SHEET
(OAL-4)

(See Instructions on Reverse)

86-0131-1
ORD #0885-44

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

REC-110
JAN 31 1 09 PM '86
OFFICE OF
ADMINISTRATIVE LAW
ENDORSED
APPROVED FOR FILING
FEB 27 1986
Office of Administrative Law
LEAVE BLANK

1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

DEPARTMENT OF SOCIAL SERVICES
(AGENCY)

BY:

Irish S. McHale
(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

FILED
In the office of the Secretary of State
of the State of California

FEB 27 1986

MARCH RONG EU, Secretary of State

By

Virginia X Brady
Deputy
LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION

Jerry Demorest

Regulations Analyst

TELEPHONE

(916) 323-0881

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

SECTIONS AMENDED

Title: *22* MPP Sections 44-111.224 and 44-207.321

SECTIONS ADOPTED

SECTIONS REPEALED

3. TYPE OF ORDER (CHECK ONE)

☒ Regular

☐ Emergency
(Attach Finding of Emergency)

☐ Certificate of Compliance

Other Regulatory Actions:

☐ Procedural and Organizational
Change

☐ Editorial Correction

☐ Authority and Reference
Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

☒ No

☐ Yes, if yes give date of previous filing _____

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

☒ No

☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES,
CHECK THE APPROPRIATE BOX OR BOXES.

☐ State Fire Marshal
(Attach Approval)

☐ Building Standards Comm.
(Attach Approval)

☐ Fair Political Practices Comm.
(Include FPPC Approval Stamp)

☒ Department of Finance
(Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

45-Day Notice: October 4, 1985

15-Day Renote: January 10, 1986

b. DATE OF ADOPTION OF REGULATION(S)

January 30, 1986

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

January 10, 1986 thru January 27,
1986, inclusive

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

☒ No

☐ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS
ON REVERSE)

a. ☐ Effective 30th day after filing with the Secretary of State.

b. ☐ Effective on _____ as required by statutes: (list) _____

c. ☐ Effective on _____ (Designate effective date **earlier than** 30 days after filing with the Secretary
of State pursuant to Government Code Section 11346.2(d).)

☐ Request Attached

d. ☒ Effective on April 1, 1986 (Designate effective date **later than** 30 days after filing with the Secretary of
State.)

INSTRUCTIONS FOR STD 400
(OAL-4)

A completed Face Sheet for Filing Regulations With the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer authorized to submit regulations.

Part 1. Provide agency name and signature of the agency officer. Also provide the name and telephone number of the person who can answer questions regarding this regulatory filing.

Part 2. Provide the Administrative Code Title in which the regulation will appear and list each section number to be amended, adopted, or repealed.
(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

Part 4. Check appropriate box.

Part 5. Regulatory activity resulting from the agency's review of existing regulations should be submitted in a separate filing. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 6. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

- a. Fire and panic safety regulations (Gov. Code Sec. 11342.3).
- b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346.5(a) (6), 11349.1 and S.A.M. Sections 6050–6057.

Part 7. a. Provide the publication date of the Notice Register in which the initial notice regarding these regulations appeared.

b. Provide the date on which the regulatory agency adopted the regulation(s).

c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

Filing Requirements

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required.
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

(1) Amend HPP Section 44-111.224 to read:

44-111 PAYMENTS EXCLUDED OR EXEMPT FROM CONSIDERATION 44-111
AS INCOME (Continued)

•2 Exemption of Earned Income

(See Section 44-101.5 for the definition of earned income.)
(Continued)

•22 Student Exemption (Continued)

•224 This exemption is applied for purposes of financial eligibility (see Section 44-207.3) and for purposes of grant determination whether or not the student has received aid previously when determining the 185 percent income limit for up to six months per calendar year for non-FPA-related earnings per exemption is applied for up to six months per calendar year for non-FPA-related earnings per Section 44-207.21(d). See Section 44-207.21(d) for JPA exemption.

a. When determining the 185 percent income limit for up to six months per calendar year for non-JPA-related earnings per Section 44-207.21(d). See Section 44-111.21 for JPA exemption.

b. For financial eligibility purposes, to the earnings of full-time student applicants and recipients and part-time student recipients. This exemption does not apply to earnings of a part-time student applicant. See Section 44-207.321.

c. For purposes of grant determination whether or not the student has received aid previously.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Section 11008.15; 45 CFR 233.20(a)(3)(ix).

(2) Amend MPP Section 44-207.321 to read:

44-207 INCOME ELIGIBILITY (Continued)

44-207

•3 Financial Eligibility (Continued)

•32 Net Nonexempt Income

•321 Net Nonexempt Income is gross income (including current child support payments collected by the county and the earnings of part-time student applicants), minus all applicable income exemptions (listed in 44-111) and income deductions (listed in 44-113).

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Section 11008.15; 45 CFR 233.20(a)(11)(vi).